



REPORT  
OF  
THE STUDY TEAM  
ON  
NYAYA PANCHAYATS

April, 1962

GOVERNMENT OF INDIA : MINISTRY OF LAW

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## STUDY TEAM ON NYAYA PANCHAYATS

193, North Block,  
Central Secretariat,  
NEW DELHI,

*Dated the 30th April, 1962.*

Shri Asoke Kumar Sen,  
*Minister of Law,*  
*New Delhi.*

MY DEAR MINISTER,

I have great pleasure in forwarding herewith the Report of the Study Team on Nyaya Panchayats.

The circumstances in which the Team was appointed, the subject-matter of its study, the manner in which the Team conducted its investigation and study have been set forth at length in the introductory Chapter. After the completion of an on-the-spot study of the working of nyaya panchayats in the various parts of the country, a draft Report was prepared by me on the basis of the evidence and other materials collected. The draft Report was circulated to the other members and was considered by the Team at four meetings held during the first week of April, 1962, and the Report has been finalised in accordance with the decisions taken at those meetings.

Yours sincerely,  
G. R. RAJAGOPAL

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# CHAPTER I

## INTRODUCTORY

1. In Chapter 43 of its Fourteenth Report submitted to the Government in September, 1958, the Law Commission set out their conclusions with respect to panchayat courts in the following terms:—

Recommendations of the Law Commission on Panchayat Courts.

“(1) Panchayat courts are capable of doing a good deal of useful work by relieving the regular courts of petty civil litigation and criminal cases of the simpler type.

(2) The panchayats are in a position to dispose of simple cases more cheaply and expeditiously and with less inconvenience to all concerned than ordinary courts.

(3) An effort should be made to establish and popularise panchayat courts in States where they are not firmly established.

(4) Wherever possible, a panchayat court should be constituted for a group of villages situated in a nearby area.

(5) Nyaya panchas should be nominated by a suitable authority out of those elected panchas who possess certain prescribed qualifications like literacy.

(6) In order to provide continuity the terms of office of nyaya panchas should be staggered.

(7) Nyaya panchas should be given training before they are allowed to exercise judicial functions.

(8) To get over the difficulty caused by the existence of factions, the panchas deciding a case might be required to belong to a neighbouring village, or each party to a dispute may be allowed to select his panch.

(9) The jurisdiction of panchayat courts should be exclusive.

(10) Nature of cases (civil) and the list of offences (criminal) triable by these courts are set out at length in the various State enactments and do not call for any enlargement.

(11) The upper limit of the civil jurisdiction of panchayats should be Rs. 200 or Rs. 250. In special cases with the approval of the High Court their jurisdiction may be increased to Rs. 500.

(12) The criminal jurisdiction of panchayat courts should be limited to inflicting a fine of Rs. 50. They should not have the power to award sentences of imprisonment either substantively or in default of payment of fine or to bind over parties to keep the peace. Cases in which such action is necessary should be made over to the regular courts.

(13) The court fee, if any, levied by the panchayat courts should be nominal.

(14) Panchayat courts should not be bound by procedural codes or by the law of evidence.

(15) Panchayat courts should wherever possible seek to effect an amicable settlement between the parties.

(16) Legal practitioners should not be permitted to appear in these courts.

(17) A revision should lie from the decisions of the panchayat courts in civil and criminal matters to the munsif or sub-divisional magistrate, who should be empowered to transfer a case from one panchayat court to another or to the regular court for trial.

(18) The power of revision should not be given to the district judge nor should a right of appeal to a larger panchayat be allowed.

(19) The district judge should be empowered to direct the removal of panchas if he is satisfied upon a report that the panch in question has been guilty of misconduct in the discharge of his judicial functions. There should be a provision for an appeal against such order of removal.

(20) Panchayat courts should be empowered to distrain or seize movable property in execution of their decrees and to send them if necessary to the collector for execution.

(21) A special officer or special officers should be appointed for the purpose of imparting training to panchas and to supervise the administration of panchayat courts.

(22) More detailed information should be collected and published regarding the working of the panchayat courts."

Law Ministers' Conference on Law Commission's recommendations.

2. These conclusions were discussed among other matters, at a Conference of State Law Ministers presided over by the Central Law Minister held at Srinagar in June, 1960 and the Conference felt that the subject being an important one and that, having regard to the utility of these institutions as organs of cheap and speedy justice at the village level, a Committee representative of the States

and the Centre may be nominated by the Law Minister to examine the question of the composition, jurisdiction and functions of panchayat courts.

3.1. It was, however, ultimately decided by the Central Cabinet that the subject of panchayats being in the State List, it would not be necessary to appoint a committee as envisaged by the Law Ministers' Conference but that it would be sufficient if a Study Team, consisting of the Special Secretary, Legislative Department, Ministry of Law and one representative each from the Ministries of Community Development and Home Affairs, after obtaining the needed reports from State Governments, undertook an on-the-spot study of panchayat courts functioning in the various States, associating the appropriate State official for the purpose in respect of each of the States visited.<sup>1</sup>

Appointment and composition of the Study Team.

3.2. In pursuance of the Cabinet decision, a Team was appointed by the Government of India in the latter half of October, 1960 with Shri G. R. Rajagopaul, Special Secretary, Legislative Department, Ministry of Law and Member, Law Commission, as Chairman, and Shri A. Prakash, Commissioner for Panchayati-Raj, Ministry of Community Development and Co-operation and Shri K. R. Prabhu, Deputy Secretary, Ministry of Home Affairs as Members. Shortly after the Team started functioning, Shri Prabhu had to relinquish his membership owing to other work in his Ministry. Thereafter, Shri L. M. Nadkarni, Joint Secretary in the Ministry of Home Affairs joined the Team as the Home Ministry's representative.

4. The Team had a preliminary meeting on the 10th November, 1960, to formulate the lines on which it should embark upon its study. It was decided that as a first step, letters might be sent to the various State Governments and Administrators of Union Territories requesting them (i) to report on the working of nyaya panchayats in the respective jurisdictions with reference to certain salient points; (ii) to make available such information and literature available with them as might be useful to the Team; and (iii) to convey their general views on the subject matter of study.

Letters to State Governments for reports and other materials.

5. After addressing the State Governments the Team devoted itself to the preparation of a comprehensive questionnaire with a view to eliciting the views of all interested persons on the various aspects of the subject matter of study. By December, 1960, the questionnaire<sup>2</sup> was finalised and despatched to various persons and bodies, official and non-official, likely to be interested in it. The Team also issued a general press release inviting suggestions from members of the public regarding the constitution, jurisdiction, procedure and other matters connected with nyaya panchayats.

Questionnaire.

<sup>1</sup>For a list of State officials associated with the Team, see Appendix IV.

<sup>2</sup>See Appendix II for the Questionnaire.

**Tours of  
States.**

6. After a careful study of the reports and other materials received from the State Governments and the replies to the questionnaire sent by several persons and bodies, the Team entered upon the next phase of its study as envisaged by the Cabinet decision, namely, an on-the-spot study of the working of the institutions in various States. The large number of reports and comments received, no doubt, helped the Team very much to pin-point the questions and problems to be studied. Even so, the tours to the various States had to be spread over what may perhaps be regarded as a longer period than the Team would have liked.<sup>1</sup> Factors of convenience of State Governments which had to arrange the tours, convenience of the Members of the Team who had to attend to several other duties rendered unavoidable such a staggering of the tours. To avoid delay, the Team had even resorted to the expedient of touring some of the States without one of its Members, Shri Prakash, who however more than compensated for his absence by his vast and intimate experience and knowledge of rural institutions. Likewise, on some of the tours, Shri Nadkarni had to send Shri G. R. Nair, Under Secretary, Ministry of Home Affairs, to deputise for him.

**Pattern of  
study on  
tours.**

7. During its tour of the States, the Team attempted to obtain as comprehensive a cross-section of public opinion on the subject as possible by holding discussions with Ministers and officials in charge of panchayats, High Court Judges, commissioners and deputy commissioners, directors of panchayats, members of Parliament and local Legislatures, members of the Bar at the State Headquarters as well as in the mofussil, block development officers, district and other panchayat officers, persons connected with panchayat samitis and zilla parishads, district judges, munsifs, sub-divisional magistrates and above all by discussions with villagers in general and members of nyaya panchayats and gram panchayats in particular. Though, in the nature of things, the Team had to depend to a certain extent upon the concerned State Governments to chalk out the tour programmes, it endeavoured in every way to prevent the tours from being purely of the conducted type. It applied its mind to the type of villages to be visited and generally adopted the pattern of indicating its preference in favour of representative types of villages based upon the degree of prosperity and advancement or backwardness of the villages. Further, the Team made deviations from the pre-arranged programmes in some cases and paid surprise visits to certain villages or panchayats not originally on the itinerary.

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<sup>1</sup>See Appendix III for the tour programmes. The first State visited was Bihar in March, 1961, and the last was Assam in March, 1962.



8. Apart from the reports and materials received from various sources and the evidence recorded by the Team in the course of its tours, the Team attempted to study the history of panchayats in our country and of foreign institutions involving the use of laymen as judges and it is on the various materials thus collected that the views expressed in the following chapters of this Report are based. Materials on which Report is based.

9.1. It is our pleasant duty to acknowledge the help, co-operation and assistance we have received from various sources, official and non-official. The persons and bodies who applied themselves seriously to our questionnaire and sent us replies were quite large in number and we desire to record our appreciation of the trouble they have taken. The success of a Study Team like ours depends in no small measure on the co-operation of State Governments and officials and we are happy to record that such co-operation was extended to us in every possible way. In this connection particular mention needs to be made of the Judges of High Courts in many States and the Ministers concerned in all the States who obliged us by sparing some time for discussions. We are extremely thankful to them all. The assistance given to us by the State representatives during our tours of the respective States also requires our special appreciation. Above all, we would be failing in our duty if we do not record our admiration and appreciation of the enthusiasm and intelligence displayed by the hospitable villagers themselves in the discussions we had with them of problems relating to nyaya panchayats. Acknowledgments.

9.2. We were not provided with any special staff for our work and we had to draw upon some officers and members of the staff of the Law Commission, all of whom had to discharge their allotted duties in addition to their normal work. Shri A. K. Srinivasamurthy, Junior Law Officer, acted as Secretary to the Team till his transfer on promotion to the Legal Affairs Department in October, 1961. He corresponded with State Governments throughout, settled tour programmes and was of considerable assistance to the Team in the preparation of the Questionnaire and a preliminary draft synopsis of some of the chapters on lines indicated by the Chairman. During his association with the Team for nearly a year he gave ample proof of his initiative and organising ability as also of his capacity for analysing and sifting data relevant to the problems under study. After his transfer, Shri R. V. S. Peri Sastry, Assistant Draftsman, acted as Secretary and his infinite capacity for research and analysis and his quick and intelligent appreciation of the problems involved have been of great help to us in the preparation of this Report. S/Shri S. Narayanaswamy and J. B. Bhatia, Private Secretary and Personal Assistant respectively to the Chairman, attended to the stenographic and typing work. They

virtually acted as reporters during the tours. In fact their duties had been more arduous than those of reporters, as in most cases they had intelligently to follow the local language in which the discussions took place or the evidence was given and prepare a record thereof in English. Besides, Shri Narayanaswamy was of great help in arranging interviews, in maintaining files and preparing the Appendices to the Report and Shri Bhatia was useful in compiling the statistical information. Shri R. B. Gupta, Legal Assistant, made an intelligent study of all relevant Acts and the evidence and prepared useful tabular statements besides being of general assistance to the Team.

## CHAPTER II

### HISTORICAL

General.

1. In India, village administration, including administration of justice, by panchayats,<sup>1</sup> is as old as the villages. The genesis of panchayats has to be sought in the democratic institutions, whether known as sabhas or assemblies or councils or guilds such as *kula*, *sreni*, *puga*, developed by the ancient autonomous village communities which Max Muller styled as the "true India of the Indians"<sup>2</sup>. In this Chapter we propose to trace in broad outlines the history of panchayats against the background of village organisations and institutions with a view to focus attention on the lessons which the past can teach us.

---

<sup>1</sup>The expression 'panchayat' is now understood all over India as an association of villagers selected for the purpose of village administration including the administration of justice. Why the number 'five' (panch) is used cannot be stated with certainty. According to Brihaspathi — "two, three or five persons shall be appointed to look after the welfare of the association" (the village) and an association of five persons for this purpose may, perhaps, have given rise to the expression "panchayat" although there has been no fixity at all at any time with regard to the number of persons to be appointed to be in charge of village affairs. As John Mathai observes (*Village Government in British India*, p. 18)—"The word panchayat possibly indicates that the number of those who originally constituted the council was five, but there is no evidence that this number was adhered to with any regularity. The term has almost completely lost its numerical connotation and means only an association of people for doing administrative or judicial work." The Sanchi stone inscription of Chandragupta II (412—413 A.D.) uses the expression 'panchamandali' and from this it is clear that the expression is of respectable antiquity. The number five, besides being an odd number facilitating a majority decision, is, as rightly pointed out by the learned writer of the Punjab Census Report, 1911, one of frequent occurrence in Indian sacred literature. Perhaps it has some symbolic association with the five elements, the panchamaha bhootha—'prithvi', 'ap', 'tej', 'vayu', 'akash'—which are traditionally invoked in testifying truth.

<sup>2</sup>Max Muller : *India—What it can teach us*. (Indian edition by K. A. Nilakanta Sastri, 1934), p. 7.

2. The conditions of life, the poor means of communication, common interests and man's natural instinct—all combined to make the village the pivot of administration and the real centre of social life in ancient India; and the growth of institutions for the governance of the village was a natural phenomenon in such circumstances. In the opinion of Radha Kumud Mookerji<sup>1</sup>, while the development of similar institutions in the modern polity of other countries was entirely due to the State which, as a fully developed and completely constituted body, consciously created autonomous centres within itself by devolution and delimitation of its own functions, in ancient India, the communal institutions, guilds and local bodies had an independent origin and growth out of the fluid and inchoate conditions of tribal life and organisation.

The village in ancient India.

3. The organisation of the village as a social and political unit finds reference in vedic literature and *jataka* stories<sup>2</sup>. Old inscriptions tell us how the village councils or assemblies were constituted, who were eligible to serve thereon and how they functioned. The village *gramanee* (headman) carried on the village government and the council or *sabha* of the village decided questions relating to village administration. The headman was always from the village and was not an officer appointed from outside.<sup>3</sup> Referring to the conduct of village affairs, Prof. Rhys David states: "The local affairs of each village were carried on in open assembly of householders held in the groves which, then as now, formed so distinctive a feature in the long and level alluvial plain."<sup>4</sup>

As a social and political unit.

4. The village assembly wielded supreme authority in the village. The details of administration were carried on by committees or sub-committees.<sup>5</sup> Attempts to control and curtail the powers of the village assembly by the Central Government were rare and exceptional and did not succeed even when attempted. Even during the Mauryan period when the State functioned through a system of organised and trained bureaucracy, in the absence of proper means of communication, the central administration did not find it possible effectively to interfere with the rural administrative machinery, and, in the words of Dr. Majumdar—"the corporate spirit was too deeply rooted in the soil to die merely at the fiat of the imperial master. With the downfall of a strong centralised government

The village assembly.

<sup>1</sup>Local Government in Ancient India, 1958, pp. 6-7.

<sup>2</sup>Rig Ved X, 62-II ; Kharassara Jatakas Vol. I, p. 354.

<sup>3</sup>S. V. Samant, Village Panchayats, pp. 11-13.

<sup>4</sup>Cambridge History of India (Ed. by E. J. Rapson) Vol. I (1922) p. 177.

<sup>5</sup>Radha Kumud Mookerji, Local Government in Ancient India—1958, Ch. VII, pp. 164 *et seq* ; Krishnaswamy Aiyangar, Evolution of Hindu Administrative units in South India—pp. 130 *et seq*.

established by the prowess of Chandragupta and the genius of Chanakya, the independent political corporations reared up their heads again."<sup>1</sup>

The village  
assembly  
and the king.

5. The village organisations left free and undisturbed by the State attained a high degree of perfection in the political sphere as well. "In ancient India, the king was the head of the state, but not of the society. He had a place in the social hierarchy, but it was not the highest place. As the symbol of the state he appeared to the people like a remote abstraction with no direct touch with their daily life which was governed by the social organisation. The points of contact between the state and the ordinary interests of the daily life of the people were indeed very few."<sup>2</sup>

Effectiveness  
of village  
organisations

6. These village organisations were not only self-sufficient economically but also were self-governed. N. C. Bandopadhyaya calls these organisations "the self-sufficient molecules, which constituted the body politic." Even the Muslim invasion was not able to make any vital impact on the village community. Alluding to the constant changes of dynasties, Dr. Qureshi says that they were little more than ripples on the surface beneath which the water continued to flow steadily.<sup>3</sup> It may be that the village organisations were left untouched by the Muslim rulers not because of any conscious appreciation of their worth and value but either out of their dislike to them or for want of a better administration in its place. Or it may be that as the village organisations had been in existence from time immemorial, the Mughals realised the harm that might ensue if they attempted to centralise the administrative powers that were enjoyed by them and, therefore, allowed them to perform their functions without any interference as a matter of policy. The fact remains that the village organisations continued to flourish, perhaps neglected but not despised.

The decay  
and revival  
of village  
institutions  
generally.

7. The break up of village institutions began only under the British rule. Between the collapse of the Mohamedan and the advent of the British rule, the political scene in India was in a confused state and there was a gradual decadence of the village community.<sup>4</sup> Under the highly centralised system of the British administration, where all the activities were controlled and guided by directions from the headquarters, village assemblies not established by

<sup>1</sup>Dr. Majumdar, *Corporate Life in Ancient India*—pp. 255—256.

<sup>2</sup>Radha Kumud Mookerji, *Local Government in Ancient India*, 1958, p. 4.

<sup>3</sup>N. C. Bandopadhyaya—*Development of Hindu Polity and Political Theories*, Calcutta (1938).

<sup>4</sup>I. H. Qureshi, *Administration of the Sultanate of Delhi* (1942), p. 205

<sup>5</sup>John Mathai, *Village Government in British India*, p. 42.

statutes had no place and the few village officials who continued to exist tended to become government servants. It did not, however, take long for the British rulers themselves to realise the utility and importance of the village organisations, and soon one after another they began to shower fulsome praise on these organisations, although decadent, often referring to them as "the soul of corporate life in the rural areas". In the words of Elphinstone—"These communities (i.e., the village communities) contain in miniature all the materials of a State within themselves, and are almost sufficient to protect their members, if all other governments were withdrawn. Though probably not compatible with a very good form of government, they are an excellent remedy for the imperfections of a bad one; they prevent the bad effects of its negligence and weakness and even present some barriers against its tyranny and rapacity."<sup>1</sup> Sir Bampfylde Fuller who compared the village with the Greek city observed: "...the village as a self-contained unit, has manifested extraordinary powers of resistance and has remained a centre of vitality in the darkest days of foreign conquest."<sup>2</sup> Sir Charles Trevelyan puts this idea more picturesquely thus: "One foreign conqueror after another has swept India but Village Municipalities have stuck to the soil like their own Kusha grass."<sup>3</sup> In a similar vein are the observations of Sir George Birdwood who remarks "India has undergone more religious and political revolutions than any other country in the world, but the village communities remain in full municipal vigour all over the peninsula. Scythian, Greek, Saracen, Afghan, Mongol and Maratha have come down from its mountains and Portuguese, Dutch, English, French and Dane up out of its seas, and set up their successive dominations in the land; but the religious trades-union villages have remained as little affected by their coming and going as a rock by the rising and falling of the tide."<sup>4</sup>

8. One of the most important functions of the old village assemblies was the administration of justice. These assemblies appear to have developed a considerable differentiation of functions, and their functions appear to have been discharged through different organs; and so far as the purely judicial functions were concerned, the evidence of the Smritis appears to point to the growth of independent institutions for the purpose.<sup>5</sup>

Ancient village assemblies and administration of justice.

<sup>1</sup>Report of the Territories Conquered from the Peshwa, *vide* Selectiont from the Minutes and other official writings of The Hon. Mountstuar Elphinstone, edited by W. Forrest, 1884, pp. 274-275.

<sup>2</sup>Studies of Indian Life and Sentiment (1910), p. 146.

<sup>3</sup>Quoted in the Modern Review, August 1951, p. 109.

<sup>4</sup>Quoted by Radha Kumud Mookerji in Local Government in Ancient India, 1958, p. 2.

<sup>5</sup>Radha Kumud Mookerji, Local Government in Ancient India, 1958. p. 165.

Popular  
tribunals in  
the Smritis.

9.1. In the Smritis, there are references to institutions bearing the names, *kula*, *sreni* and *puga*. These institutions were connected with the administration of justice in villages and though the earliest mention of these institutions as judicial tribunals is in Yajnavalkya smriti, it may be assumed that these tribunals were functioning from vedic times.<sup>1</sup> The passage in Yajnavalkya smriti indicates the integration of these tribunals with the courts of the King.<sup>2</sup> After enumerating the King's courts as 'nripenadhakrita', Yajnavalkya mentions the popular courts '*puga*, *sreni*, *kula*' and adds that in the matter of deciding disputes each previous one is superior to the next succeeding one. If we bear in mind how in other countries royal justice effaced the ancient popular tribunals, we can at once realise the significance of the development in our country evidenced by the text of Yajnavalkya. Whatever it may be, these popular tribunals find frequent mention in all the later Hindu law books. It is out of place to enter into the controversies as to the exact connotation of the terms *kula*, *sreni* and *puga* employed to denote these tribunals.<sup>3</sup> Broadly speaking, *kula* is the lowest court composed of kinsmen for arbitration in small matters. *Sreni* is the court constituted of traders or artisans, including men of different castes pursuing similar means of livelihood, and *puga* is a court constituted by men of different castes and occupations inhabiting the same village or town.<sup>4</sup> An interesting passage in Katyayana Smriti describes the qualifications for membership of these tribunals. It lays down that the members should be pure, conversant with vedic dharma (or veda and dharma), self-controlled, well-born, of all round capacity, not covetous, aged and noble.<sup>5</sup> As to the law to be applied by these tribunals, we have a text of Pitamaha which provides: "between parties of the same country, town, societies, cities or villages, adjudication should be made by following their own conventions and usages; but when the dispute is between these persons and strangers, the law of the dharma sastra should be observed."<sup>6</sup> As to the jurisdiction of these tribunals, the position seems to have

<sup>1</sup>See N. C. Sen Gupta, Evolution of Ancient Indian Law (Tagore Law Lectures, 1950), 1953, p. 10.

<sup>2</sup>Yajnavalkya II. 30.

<sup>3</sup>For details, see Kane : History of Dharma Sastra, Vol. III (1946), pp. 280-281.

<sup>4</sup>According to Brihaspati, (28—30),

"When a case has not been duly investigated by a meeting of the kindred it shall be decided after due deliberation by companies (of artisans). When it has not been duly decided by these, it should be decided by the assemblies of co-inhabitants ; and when it has not been sufficiently laid out by these, it should be tried by appointed judges."

<sup>5</sup>Cited in Varadachariar : Hindu Judicial System (1946), p. 97.

<sup>6</sup>Cited in Sarkar : Epochs in Hindu Legal History (1958), p. 244.

varied from time to time. Broadly speaking, causes concerning violent crimes seem to have been outside the purview of these tribunals at all times.

9.2. The principle underlying these courts has been admirably put by the Sukra Niti: "They are the best judges of the merits of a case who live in the place where the subject-matter of the dispute arises."<sup>1</sup> This system harmonised with the spirit of the people so much that it was invariably encouraged by monarchs.

10. These indigenous institutions continued to flourish in some form or another down to the British era. The decisions of these bodies were supported not only by the moral sanction of the public opinion of the community but also by the legal sanction of punishment inflicted by the king. Neither the Mauryan zeal for centralisation nor the Muslim invasion was sufficiently strong to kill them. In fact, in the Mauryan village communities, *dharmasthas*, that is to say, influential persons appointed by the Government to the village bench, who, unlike their earlier counterparts, did not possess any *de jure* powers of self-adjudication, did continue to exercise them *de facto*, their main endeavour being to arrive at an equitable arrangement in each case satisfactory to both the parties. Inscriptions dating back to the 10th century A.D. in Uttaramallur in the Chingleput district of Madras show that in South India administration of justice through village sabhas was well known. These inscriptions reveal the extraordinary care taken in the selection of the members of the sabha and details are to be found in these inscriptions as respects the qualifications of members, disqualifications, method of selection and the like.<sup>2</sup> And during the Muslim period instances are not found wanting in which the Government respected and gave effect to the decisions of such village institutions even where they went against the interests of persons professing the same religion as the rulers.<sup>3</sup> Under the Moghuls<sup>4</sup> panchayats had a wide jurisdiction covering "communal disputes, matrimonial disputes, disputes concerning revenue and all kinds of rent sharing disputes.....and indeed all kinds of conflict arising

<sup>1</sup>Sukra Niti : IV, 5, 24.

<sup>2</sup>Ursula K. Hicks, Development from below (1961), pp. 45-46, observes:— 'Generally speaking, panchayats in the north were much damaged by the centralising tendencies, first of the Mughal and later of the British administration. In the south, there had been less interference and it could still be said that 'the panchayat is God.'"

<sup>3</sup>See the cases cited in Altekar : History of Village Communities in Western India, p. 44.

<sup>4</sup>See P. Saran : The Provincial Government of the Mughals, cited. in the Journal of the National Academy of Administration (Vol. VI, No 2, April 1961), p. 105.

in the social and economic life of the people." An informal system of appeals and reference from a panchayat to a nearby bigger panchayat also seems to have obtained.

**Their position in early and later British days.**

11.1. The decline of the village community after the downfall of Muslim rule which we have referred to earlier no doubt enfeebled panchayats. The process was accelerated by the change in policy introduced by the British Government of establishing its own courts and its own officers to try cases which brought about a sharp decline in the importance of the institutions. The decisions of gram panchayats ceased to obtain any recognition and therefore even where they continued to function, the only sanction behind the decisions was the moral force of public opinion. When people discovered that the power of the State was behind the newly established courts and not behind these ancient institutions, they naturally abandoned the old courts and turned to the new ones. It is surprising that notwithstanding the pronounced change in policy, gram panchayats should continue to exercise jurisdiction in respect of certain matters in the village and at the same time have their decisions respected. In Punjab we were told that in a certain district which looks with disfavour upon dowries, the gram panchayat is still able to inflict fines on persons giving dowries and to realise the fines, the fines so realised being utilised for the benefit of the village community.

11.2. The large degree of local autonomy which the villagers formerly possessed disappeared with the advent of the British largely due to the change brought about by the revenue and police administration and the administration of justice. Better means of communication and the growth of individualism also played their part in this process. Despite this the British administration was not slow to realise the importance of these village bodies and before long they attempted to revive them in some form or another.<sup>1</sup>

**The revival of the judicial panchayat.**

12. Regulations passed in Bombay and Madras in 1802 (modified in 1827) and 1816 respectively were aimed at diminishing the expense of litigation and in rendering the principal and more intelligent inhabitants useful and respectable by employing them in administering justice to

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<sup>1</sup>The panchayat organisation probably touched rock bottom in the 1850's and 1860's. But long before that enthusiastic British administrators coming on this indigenous institution which still possessed vitality had already begun to realise its importance in the administration of the country. cf. Ursula K. Hicks, Development from below, 1961, p. 46.



their neighbours. Although the experiment<sup>1</sup> was not successful, the attempt was not given up and we find a Royal Commission observing in 1907-08: "The foundations of any stable edifice which shall associate the people with the administration must be the village, as being the area of much greater antiquity than administrative creations such as tehsils, and one in which the people are known to one another, and have interests which converge on definite and well-recognised objects like water supply and drainage."<sup>2</sup> This Commission also suggested that the village panchayats might be entrusted with summary jurisdiction in petty civil and criminal cases. Then came the Government of India resolution of May, 1915, which left the matter to be regulated by State Governments after laying down certain broad principles, one of which was that the jurisdiction of panchayats in judicial cases should ordinarily be permissive. Following the expression of these views, steps were taken to develop nyaya panchayats.<sup>3</sup>

13. The foregoing survey, though brief, is sufficient to show that administration of justice in villages by panchayats or popular tribunals is of virtually immemorial origin. Though the panchayats may have evolved out of the fluid and inchoate conditions of tribal life as mentioned earlier, they took deep root in the soil and fitted so well with the spirit and genius of our villagers that they virtually deified them as is evident from sayings such as "Panch Parmeshwar" (the panch is Parmeshwar or supreme deity) and nothing short of an utter disruption of the village life and village administration such as happened during the early British period could affect the panchayats. Even such violent changes only stunted their growth and rendered them ineffective in varying degrees but did not destroy them altogether. The British rulers themselves recognised their mistake in not promoting such institutions and made some efforts at reviving them. If the past be any guide for the future, by reviving panchayats and moulding them on the right lines we will be taking a much needed step in the direction of making law and administration of justice reflect the spirit of the people and become rooted once again in the people. Conclusion.

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<sup>1</sup>For a competent survey of Elphinstone's experiments in Bombay see Kenneth Ballhatchet : Social Policy and Social change in Western India (1957) pp. 106—115, pp. 193—200, etc.

<sup>2</sup>Royal Commission on Decentralisation, paragraph 699.

<sup>3</sup>See the Fourteenth Report of the Law Commission pp.874 *e.s.et seq*  
See also Journal of the National Academy of Administration Vol. VI No. 2 p. 107 *et seq.*

## CHAPTER III

## ANALOGOUS INSTITUTIONS IN OTHER COUNTRIES

Utility of  
study of  
parallel  
foreign ins-  
titutions.

1. In the previous Chapter we have considered our country's experience in trusting laymen with the administration of justice and the lessons of that experience. We have seen how the panchayat is a unique, highly treasured indigenous institution. But the basic idea underlying the institution, namely, of leaving the settlement of disputes arising in a locality to a body of laymen of the locality is not peculiar to our country. The history of the world reveals that our country does not stand in isolation in conferring judicial powers on laymen or in reserving to laymen of the locality the lower rungs of administration of justice. Other countries have had judicial institutions involving the use of laymen as judges. A comparative study of the more important of these institutions would go a long way towards a more proper assessment of the problem before us. We understand the strength and weakness of our own system the better from such a comparison and thus we will be able to fashion out a more fool-proof system.

English  
justices of  
the peace.

2. Perhaps, the most striking instance of entrustment of judicial functions to laymen of the locality occurs in the English institution of justices of the peace. We are familiar with the expression 'justice of the peace' but few of us appreciate that the expression connotes in England an institution of respectable antiquity, that a vast majority of the justices of the peace in England are laymen and that besides exercising limited but by no means unimportant civil jurisdiction, these justices hear and determine "more than 95 per cent. of the total number of the criminal offences"<sup>1</sup> committed in England. In the words of Allen:

"Today some 16,000 citizens (a quarter of them women), the vast majority of them without any legal knowledge or training, administer the greater part of criminal jurisdiction and a small, but not unimportant, part of civil jurisdiction. This is, calmly considered, an astonishing spectacle in a country which is jealous of the integrity of its justice, and it is the wonder of all foreigners, for nothing like it exists in any part of the world."<sup>2</sup>

<sup>1</sup>C. K. Allen : *The Queen's Peace*. (Hamlyn Lectures for 1953) (pp. 171-172). We are indebted to this and Frank Milton's book (post) for enlivening information about the justices.

<sup>2</sup>Allen : *op. cit.* p. 178.

3.1. The institution of justices of the peace originated in a manner quite different from that of panchayats. Panchayats in their origin were bodies evolved by the people themselves, as part of a process of organising themselves into orderly communities, though when monarchical institutions came to the ascendancy they came to be regulated in varying measures by different sovereigns. On the other hand, justices of peace came into being as royal instruments for centralisation of administration in general and administration of justice in particular.<sup>1</sup> The institution of justices served to oust finally the pre-Norman popular courts such as the shire-moot and the hundred-moot and the early Norman feudal courts such as the courts of the Lords of manors.<sup>2</sup> Nevertheless in its functional aspect, in short in its essence, the institution of justices of the peace bears some analogy to our panchayats and it will be fruitful to make a detailed study<sup>3</sup> of the institution both for judging the potentialities and limitations of lay judges as also for testing the soundness of the sophisticated distrust of lay judiciary.

Origin and  
history of  
English  
justices.

3.2. Scholars have traced the origin of the institution of justices of the peace to a proclamation of 1195 but for our purposes it is sufficient to start with a statute of 1361 passed during the reign of Edward III. This statute provided for a special commission for each county. The commission was to be assigned to 'one Lord and with him three or four of the most worthy in the country, with some learned in the law'. In short the commission was to be issued to a committee of five or six. Allen construed the statute to have fixed the number of justices at five per county,<sup>4</sup> a panchayat indeed! It was provided by the same statute that the justices shall have power *inter alia*—

"To hear and determine at the Kings' suit all manner of felonies and trespasses done in the same county according to the laws and customs."

Thus in the commission envisaged by the statute under consideration we have a 'committee of five', the majority of its members being laymen drawn from the locality, charged with the administration of criminal justice in the county. From the point of view of the local element and functions, it is somewhat similar to the ancient Indian panchayats.

<sup>1</sup>".....the Crown in creating J.P's had at last found an answer to the problem of how to keep order throughout the country on a local basis and without the men in charge of the localities becoming too powerful. .... They were resident in, and not mere visitors to, their own districts ; their local knowledge made for efficient administration at the same time they never became strong enough to constitute a threat to the Crown, whose servants they were." Frank Milton : In some Authority (1959), p. 15.

<sup>2</sup>See on this point—Holdsworth : History of English Law, Vol. I (Third edition, 1922) pp. 285-286.

<sup>3</sup>For reasons of space we have not considered the special rules as to Borough justices.

<sup>4</sup>Allen : Op. cit. p. 133.

The similarity increased when in course of time, the requirement as to presence of legally qualified persons became a dead letter.<sup>1</sup> The original court held by the justices came to be known as court of quarter-sessions because by a statute of 1363 the justices of a county were ordered to hold their sessions four times a year. In course of time the practice developed of particular statutes conferring jurisdiction in regard to minor offences over two or more justices sitting in special sessions for the purpose. These sessions came to be known as petty sessions and with regard to these courts of petty sessions, there could not be any requirement as to presence of legally qualified justices unless the statute expressly provided for it. In course of time quarter-sessions developed as a higher jurisdiction over petty sessions. While the justices of the peace sitting in quarter-sessions reminds one of our full-fledged panchayats, the petty sessions reminds us of benches or sub-committees of panchayats.

Method of  
selection of  
justices.

4. How were justices of the peace selected? They were and are appointed by the Crown. The Crown in appointing justices seems to have acted on the advice of different persons at different periods. During the middle ages the King sometimes consulted Parliament and sometimes acted on advice from other sources. During the Tudor period and the early Stuart period the judges of assize seem to have advised the King. After 1688, the Lord Lieutenant of the county suggested names. Since 1910, pursuant to the recommendations of the 1910 Royal Commission on Justices of the Peace, the Lord Chancellor advises the Crown as to the persons to be appointed on the basis of recommendations of local advisory committees set up for the purpose and the recommendations of the Lord Lieutenant of the county. Thus the present method of selection is one of nomination on the basis of recommendations of a local body set up for the purpose and the customary, though titular, head of the locality. That the local advisory committees consist of men drawn from different political parties cannot be gainsaid. That party considerations may, and, do in actual practice, play a part in the suggestion of names by advisory committees is more than borne out by an identical recommendation made by two Royal Commissions at an interval of nearly half a century. The 1910 commission and the 1948 commission had alike recommended that considerations of party politics should not be allowed

<sup>1</sup>When exactly this happened cannot be stated with certainty, though it is certain that it happened many centuries ago. For more details see : Holdsworth : op. cit. p. 290. In Shakespeare's *Merry Wives of Windsor* we find Justice Shallow being described as of the 'Coram'. According to Frank Milton the distinction between justices trained in law and others 'had become blurred to the point of irrelevancy' by the 16th century. See Frank Milton : Op. cit. p. 12.

to determine the names to be recommended.<sup>1</sup> It all shows how difficult it is to eliminate the percolation of party elements into a lay judiciary under the aegis of a democratic set up. The more important lesson for our purposes is that in spite of all this the discontinuance of the English system has not been recommended and that it is hardly correct to decry panchayats merely on the ground of a general fear that they would degenerate into either party cells or centres of party and local factions whatever the safeguards taken may be.

5.1. The qualifications prescribed for justices may now be considered. The earlier statutes prescribed no qualifications save that they should be of 'the best reputation and most worthy men of the county'<sup>2</sup> or that they should be drawn from 'the most sufficient knights, esquires and gentlemen'.<sup>3</sup> During the 15th century a property qualification of £20 annual estate income was prescribed.<sup>4</sup> This amount was raised to £100 clear of all deductions during the 18th century<sup>5</sup> which continued to hold good (except that in 1875 the qualification was fixed at £100 ratable value) till 1906 when the property qualification was abolished completely.<sup>6</sup> In passing it may be mentioned that both the Royal Commissions on Justices of the Peace had recommended that it is in the public interest that persons of every social grade should be appointed as justices of the peace, and that working men with a first hand knowledge of the conditions of life among their own class should be appointed to the county as well as to the borough benches.<sup>7</sup>

Qualifications.

5.2. Until 1919, women could not be made justices but this disqualification was by no means peculiar to this office. It was part of a general disqualification to which women were subject in England. That there was no rational justification for the disqualification and that England failed to exploit for many centuries one of the best fields for recruitment of justices is more than borne out by the evidence given before the 1948 Royal Commission. The Commission observed:

"All the witnesses have agreed that women have proved themselves to be a most valuable addition to the bench."

<sup>1</sup>See Report of the Royal Commission on Justices of the Peace, cmd. 5250, 1910, summary of conclusions and recommendations : see also Report of the Royal Commission on Justices of the Peace, cmd. 7463, 1948, pp. 10 and 87.

<sup>2</sup>34 Edward III. c.1 (1361).

<sup>3</sup>13 Richard II. St. 1c. 7 (1389).

<sup>4</sup>18 Henry VI. c. 11 (1439).

<sup>5</sup>5 George II. c.18 (1732).

<sup>6</sup>6 Edward VII. c.16 (1906).

cmd. 7463, 1948, pp. 4 and 87.

5.3. The qualifications as to property and sex having been removed, the only qualification which remains now is that the person should reside in the county or within a short distance thereof. Under an Act of 1949 the distance is specified as 15 miles.<sup>1</sup> Even the residence qualification can be waived by the Lord Chancellor in exceptional cases. The net result of the foregoing discussion as to qualifications is that the standard of the justices has been left to the good sense of those who select them, right from the earliest days. It would, however, be necessary to make allowance for certain factors in judging the situation. In the days when the standards of literacy were as poor in rural England as in rural India today, justices were drawn from the higher classes only and so most of the justices then must have been more than mere literates.<sup>2</sup> By the time the property qualification was removed the literacy percentage of England had risen enormously and this ensured literate justices. Besides, justices were always selected and appointed and the persons selecting and appointing were free to choose the best or at any rate eliminate the illiterate. In drawing a comparison between the English justices and our panchayats we have to bear these facts in mind.

#### Jurisdiction.

6.1. From the beginning the jurisdiction of justices has been a matter of prodigious additions. Lambard in his treatise on justices, 'Eirenarcha', published during the 16th century complained of 'not loads but stacks' of statutes touching the jurisdiction of justices. He enumerated no less than 318 statutes. Professor Maitland who forcefully characterised the justices as 'judicial beasts of burden' observed thus about their functions:—

“Long ago lawyers abandoned all hope of describing the duties of a justice in any methodic fashion, and the alphabet has become the one possible connecting thread.”<sup>3</sup>

6.2. Any attempt to state in a concise manner the powers or jurisdiction of justices is futile. For our purposes it is sufficient to indicate the broad outlines, without regard to the powers of individual justices, or their powers while sitting in petty sessions or quarter sessions. The major

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<sup>1</sup>Justices of the Peace Act, 1949, s. 1.

<sup>2</sup>An investigation into the educational qualifications of resident justices of Somerset for the years 1613—1623 by an American scholar revealed the following results. Out of the 85 justices, 35 had been to a university, 25 had attained the B.A. degree or a higher degree and even more significant 42 of the 85 had attended one of the Inns of court and nine of these were barristers—See Osborne : Justices of the Peace, 1361—1848 (1960) p 86.

<sup>3</sup>Maitland : Justice and Police, p. 84.

portion of their jurisdiction is in relation to criminal matters. According to F. T. Giles:<sup>1</sup>

"All criminal prosecutions with the rarest exceptions.....begin in the magistrates' courts and nearly ninety-nine out of every hundred end there."<sup>2</sup>

The penalties which justices can impose depend upon the nature of the offence and the statutory provisions in relation to that. Broadly speaking in most cases they have powers to impose fines up to £10 with or without imprisonment. Sentences of imprisonment may extend up to six months. In some cases they can impose imprisonment up to 12 months and in a few cases up to two years.<sup>3</sup> Besides, in modern times, special benches of justices try juvenile offenders, and administer the 'reformatory' law dealing with juvenile offenders. Besides trying minor offences, the justices discharge important functions as examining justices or committing magistrates in relation to major offences. A very important part of the jurisdiction of justices from the earliest times is their power to take sureties for good behaviour for the purpose of preventing the peace being blemished. This power dates back to the 1361 statute.<sup>4</sup>

6.3. In addition to criminal jurisdiction, select benches of justices have some amount of civil jurisdiction. The most important branch of their civil jurisdiction pertains to the making of separation and maintenance orders. The work is of the same nature as that of the Divorce Division of the High Court, the only difference being that the justices do not ordinarily have the assistance of trained solicitors and experienced barristers and have to do what best they can out of the parties who come before them straight from the street and without any lawyers to present their cases. Besides matrimonial jurisdiction, the justices have under recent statutes jurisdiction in relation to guardianship of infants and adoption of infants, a jurisdiction which was formerly the close preserve of the Chancery division of the High Court. Among other branches of jurisdiction of justices the making of maintenance orders in relation to illegitimate children and of ejectment orders in relation to small tenancies and the enforcement of payment of rates due to public authorities may be mentioned.

7. The foregoing sketch of the jurisdiction of justices is sufficient to show that the justices, acting singly or in 'traditional benches' of petty sessions or quarter sessions

Procedure  
in courts of  
justices.

<sup>1</sup>F.T. Giles : Magistrates Courts, (1951 edn.) p. 8.

<sup>2</sup>Namely, courts held by justices and stipendiary magistrates.

<sup>3</sup>Subject to a few exceptions, a single lay justice cannot ordinarily exercise any judicial powers.

<sup>4</sup>A right of appeal from an order binding over a person under the Act was provided for the first time in 1956 : See Frank Milton : op. cit. p. 13.

or in the modern special benches virtually exercise not only the jurisdiction which magistrates of the first class and those below them exercise in our country but also a certain amount of important civil and miscellaneous jurisdiction—a staggering jurisdiction indeed for any lay judiciary! Be it, however, noted that the justices have to exercise this jurisdiction not in the ‘banyan tree’ or the ‘Sindhi jirga’ style but in full compliance with set forms and procedure and with profound respect to the fundamental principles of administration of justice. Broadly speaking, the procedure followed in criminal cases is similar to that adopted in summary trials under our Code of Criminal Procedure. Proceedings are initiated on complaint by police or a private individual. Summons are served. Lawyers can appear. Presumption in favour of innocence of accused has to be respected in all its vigour. Justice must not only be done but should manifestly and undoubtedly be seen to have been done and the greatest reluctance has to be shown to cut short any one concerned with the proceedings who desires to speak.

#### Clerks of Justices.

8.1. Thus not only is a bewildering mass of jurisdiction conferred on lay justices in England but they are enjoined to exercise the jurisdiction in compliance with a rather professional and technical procedure. In short, lay justices have to serve and act as professional judges! In fitting laymen for this role the institution of clerks to justices has no doubt played an important role and the common tendency is to give the clerks all the half-pence and the justices all the kicks. In assessing the work of the justices it is therefore necessary to have due regard to the assistance which they get from clerks.

8.2. In the words of the Roche Committee Report on Justices' clerks:

“The office of clerk to justices grew up to meet the needs of a lay magistracy.”<sup>1</sup>

These clerks first appeared as personal clerks to individual justices. Their numbers may be gauged from the fact that a manual for clerks appeared as early as 1641 and was re-printed in 1654 and 1660. But being personal clerks to individual justices or groups of justices, as was the practice during the 18th century, there was no regulation of their appointments, and no qualifications in law or general education were obligatory. It was only in 1850 that an enabling provision came to be made for appointment of salaried clerks and in 1877 it was provided that clerks should be qualified in law or that they should have practical experience in the administration of law. Today

<sup>1</sup>Report of the Departmental Committee on Justices' Clerks. 1944 cmd. 6507, p.1.



the clerk is recognised as an absolutely necessary accompaniment of lay justices for putting them as it were on the track of law. But the decision and the responsibility for the decision is that of the judge exclusively. The function of the clerk is only to caution and advise.

8.3. The answer to the question whether lay justices cannot function without the assistance of trained lawyer clerks is not easy. It would seem to us that the answer would depend on the scope of jurisdiction and the procedure to be followed. In the English system, as we have seen, the wide jurisdiction and the rather technical procedure account in some measure for such a necessity. Another cause perhaps is the large number of cases and applications which justices have to dispose of. It is significant that in England for nearly five centuries after the advent of lay justices no statutory provision was made for clerks. If individual justices provided themselves with clerks it only shows the zeal of the lay judiciary to rise to any occasion even at the risk of monetary loss. It would therefore be reasonable to conclude that a fair share of the credit for the success of the justices, whatever success they may have achieved, ought to be given to the justices themselves. It seems reasonable to assume that with lesser jurisdiction and a more informal procedure the justices could have managed without any professional clerks.

9.1. The system of lay justices has never been above nor has it ever escaped vigorous criticism but it has survived all attacks. For our purpose it is sufficient to consider the system at its zenith, that is, during the Tudor and the early Stuart periods, at its worst, that is, during the 18th century and then its functioning during the last hundred years. Working of the system.

9.2. When the institution came into vogue during the reign of Edward III, the administration of criminal law mainly consisted in dealing with rioters, barators and robbers. It became highly complicated during the Tudor period. In the words of Frank Milton, "Parliament passed law after law regulating in the most elaborate detail what citizens must or must not do. The Justices had to enforce them all."<sup>1</sup> The same writer observes that there were laws against playing games, keeping dogs, soothsaying, wearing of particular dresses, vagrancy, wages and so on and so forth. Later came the laws relating to religion, attendance at church, method of worship. Parliamentary enactments ordained rules involving 'supervision' of an individual's life 'literally from the cradle to the grave' and indeed one statute ordained that a corpse must be buried in a shroud of sheeps' wool. The justices were at the height of authority and powers during the 16th and 17th centuries. Yet it was during this period that justices had received Tudor and early Stuart periods.

<sup>1</sup>Frank Milton : op. cit. p. 16.

high praise for their work. There were doubtless slack justices, corrupt justices, cruel and tyrannical justices, as the proceedings of the Star Chamber and Privy Council reveal clearly. In 1575 the justices were 'under fire' and the Lord Keeper of Queen Elizabeth actually issued a threat to dissolve the institution altogether.<sup>1</sup> Yet six years later we find the justices being conferred the same powers and authority as the judges at West Minster for dealing with recusancy. On the whole the system seems to have worked very well, despite occasional lapses and particular exceptions. We have an account of the working of the system from a distinguished contemporary. Sir Thomas Smith observed thus in his book, *De Republica Anglorum*, published in 1589:

"There was never in any commonwealth devised more wise, a more dulce and a gentle nor a more certain way to rule the people whereby they are always kept as it were in a bridle of good order and sooner looked into that they should not offend than punished when they have offended."<sup>2</sup>

Even the critical Coke, (1552-1634) conceded of the system that it was 'such a form of subordinate government for the tranquillity and quiet of the realm as no part of the Christian world hath the like', albeit with the qualification 'if duly exercised'.

9.3. The success of the institution during the 15th and 16th centuries was in no small measure due to the vigorous supervision to which justices were subjected. In the words of Holdsworth:

"The manner in which the Privy Council and also the provincial Councils of Wales and the North, supervised the work of the justices of the peace, both in town and county, and the manner in which the Star Chamber and the provincial Councils dealt with their sins of omission and commission, made the justices efficient instruments of the local government of a modern State."<sup>3</sup>

**Eighteenth  
Century**

9.4. In the 18th century the justices were at the lowest ebb both in the authority they possessed and the esteem they could win, when William Shenstone said:

"A justice and his clerk is now little more than a blind man and his dog."

<sup>1</sup>Osborne : op. cit. pp. 32 *et seq.*

<sup>2</sup>Cited in Osborne ; op. cit. at p. 62.

<sup>3</sup>Holdsworth : *Some Makers of English Law* (1938), p. 83.

and when Burke characterised the Middlesex Bench as the 'scum of the earth' and Fielding, Smollet and other writers pilloried the justices in their novels.<sup>1</sup>

9.5. The question which is pertinent to our purposes is whether the shortcomings of the 18th century justices were due to their being laymen. The answer cannot be in the affirmative. The struggle between King and Parliament during the Stuart period and the growing intensity of party warfare throughout the century had doubtless an adverse effect on the quality of justices. James II removed all justices who did not adhere to him. After the 1688 revolution all the justices who found favour with the previous regime were removed. In 1700 no less than seventy-five justices were removed in Middlesex alone.<sup>2</sup> That wealth and corruption played some part in the selection of justices in an age when the Prime Minister of the nation believed in the principle of every man having his own price cannot be disputed! Nor was this all. The earlier practice of consulting judges of assize in the matter of appointing justices was given up with the result that the Lord Lieutenant of the county became virtually the deciding authority. No wonder that in quite a few cases at least, personal, political and social prejudices determined the choice made.

9.6. A more important factor than even the quality of justices was perhaps the absence of adequate supervision of the justices. The Star Chamber disappeared in 1641. Justices were no doubt subject to the control of the courts of common law by means of the prerogative writs but this could not have been sufficient for obvious reasons.

9.7. Another reason for the unpopularity of justices was the controversial nature of some of the laws they had to administer. The licensing laws, involving as they did infringement of individual liberty, the unavoidable use of the Riot Act towards the end of the century for dealing with the reformists, the poor laws administration, the game laws—all these involved action on the part of justices which was bound to be of a controversial character. Lastly, it may be pointed out that the 18th century was an age of satire and vitriolic satire at that and some allowance

<sup>1</sup>See Frank Milton : *op. cit.* pp. 22 *et seq.* Fieldings' Justice Frolic (Joseph Andrews) highly enjoyed sentencing anyone to prison or to a little stripping and whipping more so if the punishment pleased the local Great Lady. Smollett's Justice Gobble (*Adventures of Sir Launcelot Greaves*) is a more horrible specimen. A peer who owed him money had him appointed as a justice by way of compounding the debt : The justice held court in his own house with his repulsive wife sitting beside him and instigating him to decide the case with a maximum of bias, spite, malice and cruelty.

<sup>2</sup>Osborne : *op. cit.* p. 163.

has to be made on this score also in considering the criticisms heaped upon justices during this period.<sup>1</sup>

19th and  
20th centur-  
ies.

9.8. For reasons explained earlier, the justices were at the height of unpopularity in the beginning of the 19th century. As the reformist movement gained ground in England, it became more and more evident that justices would either be wiped out of existence or at least reformed beyond recognition. Between 1829 and 1835 the justices were stripped of most of their administrative powers. On the other hand, their judicial functions came to be gradually well defined and augmented. An important step in the direction was the introduction of four Bills in 1848 for the purpose defining the procedure to be followed by justices and for giving protection to justices. In connection with the Bills the Attorney-General observed:—

“Though there might be difference of opinion in the House as to the expediency of intrusting to the unpaid magistracy the large powers they now possessed, all must agree that it was the bounden duty of the Legislature to afford all possible assistance to the gentlemen who discharged such duties as were devolved upon them.”<sup>2</sup>

These Bills constitute the first landmark in the movement for a more orderly regulation of judicial functions. It was a movement which facilitated the subsequent conferring of additional jurisdiction. After the 1829-35 reforms, the justices gradually regained their popularity so much that Maitland could lament with conviction and deprecate the moves to abolish the system in 1888. Maitland said of the justices:

“He is cheap, he is pure, he is capable but he is doomed; he is to be sacrificed to a theory, on the altar of the spirit of age.”<sup>3</sup>

Nor, would any one have been more happy than Maitland himself that his forebodings did not come true, for, the British, true to their national genius, did not sacrifice, to

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<sup>1</sup>Even the unimpeachable Fielding who lived “a standard of life plain to the point of squalor” was not spared by the critics of the age. Of him one versifier had written :—

“Now in the ancient shop at Bow  
(He advertises it for show)  
He signs the missive warrant  
From hence he comfortably draws  
Subsistence out of every cause  
For dinner and a bottle.”. Cited in Frank Milton, op. cit.

31.

<sup>2</sup>Cited in Osborne : op. cit. at pp. 223, 224.

<sup>3</sup>Cited in Frank Milton : Op. cit. at p. 24.

use a happy epigram of Maitland himself "justices' justice to lawyers' law". Though during the 20th century the quality of justices has come up for scathing criticism, the efforts have been directed towards improving the quality of justices and the method of selection of justices rather than towards abolishing the system. Efforts have also been made to define more clearly their jurisdiction and the procedure to be followed by justices, the most recent enactments being the Justices of Peace Act, 1949, and the Magistrates Courts Act, 1952.

10.1. Regarding the work of the justices no greater tribute can be paid than that bestowed by Allen on the basis of facts. He observed:— Popularity of justices.

"When we take into account the vast number of decisions rendered every day by these courts, the proportion of palpable errors which demand correction is infinitesimal; and again, though appeals on law, fact and sentence are easily available and not unreasonably expensive, the number of them is a minute fraction of total determinations."<sup>1</sup>

10.2. Regarding the popularity of justices again facts speak for themselves. Since 1835, enabling provisions have been made for replacement of lay justices by professional magistrates in urban areas.<sup>2</sup> In most areas these provisions have remained unused.<sup>3</sup> That this is not due to considerations of economy as Lord Chorley thought<sup>4</sup> has been shown by Jackson.<sup>5</sup> The other factor we have to take into account is the increased mass of specialised jurisdiction—especially matrimonial cases, infants— which the Legislature has deemed fit to entrust to justices. It may safely be asserted that now more than at any other time lay justices have reached the high water-mark of popularity and success as justices. As R.M. Jackson observes:—

"There is at first sight something odd in the office of the justice of the peace continuing in an age that has been steadily turning away from the amateur in favour of the professional. One might have expected that in the years since 1945 the unpaid justice would have been replaced by paid magistrates, yet the system of lay justices

<sup>1</sup>Allen : op. cit. p. 180.

<sup>2</sup>For example s. 99 of the Municipal Corporation Act, 1835.

<sup>3</sup>For figures see R. M. Jackson. *Stipendiary Magistrates and Justices*. 1946 *Modern Law Review*. pp. 1—12.

<sup>4</sup>See Lord Chorley's review of Hanbury's *English Courts of Law* in 1944 *Modern Law Review*. pp. 83 *et seq* at p. 85.

<sup>5</sup>Jackson, op. cit. at p. 10.

not only continues but is more firmly established today than it was before the war."<sup>1</sup>

Conclusions  
from British  
experience.

11. The following seem to be the lessons which can be drawn from the foregoing survey of the English system of lay justices:—

- (i) It is erroneous to assume that laymen cannot be entrusted with administration of justice. They can be trusted with even the most complicated types of jurisdiction if given proper guidance. The quantum and nature of guidance would vary with the nature of jurisdiction.
- (ii) Lay justice is cheap and quite satisfactory. There is no need to sacrifice lay justice to a theory.
- (iii) Just as every one trained in law cannot be a good judge, so also every lay man cannot be a good judge. It is, therefore, necessary to devise methods of selection whereby the best men are attracted.
- (iv) The success of lay justices is in proportion to the right supervision exercised over them and the guidance given to them.

#### *Justices of the peace in the United States of America*

Reasons for  
failure of  
system of  
lay justices  
in U.S.A.

12.1. The English institution of lay justices was transplanted in the United States by the English colonists who settled there. The working of the institution in the United States reveals the strength and weaknesses of the system. At present the institution is virtually in its death throes. Speaking of the various studies made of the system in America, Arthur T. Vanderbilt observes:—

“The recommendation that the present justice of the peace system should either be eliminated or greatly improved epitomises all recommendations of every study made of that system.”<sup>2</sup>

12.2. What are the reasons for the failure or unpopularity of the system? Is it because of the lay personnel or their inability to cope with judicial work? The Report on Traffic Courts and Justices of the Peace (1940) as approved by the American Bar Association traces the failure of the system to two factors:—

“ . . . first, in adopting the justice court from England, the colonists neglected to take with it

<sup>1</sup>R.M. Jackson : The Machinery of Justice in England (3rd edn. 1960) p. 146.

<sup>2</sup>Arthur T. Vanderbilt : Minimum standards of judicial administration (1949) p. 306.

the safeguards there provided; second, the change from rural to urban civilisation found it poorly fitted to meet the new requirements."<sup>1</sup>

12.3. The safeguards pertain to selection, qualifications and supervision. A few extracts from the report mentioned already reveal the sorry state of affairs. As to selection and qualifications the following extract is telling:—

" . it is not unusual to find cases where the justice of the peace elected never ran of his own knowledge. One incumbent wrote in, 'I was elected to this office in 1928, inexperienced, and nominated at the local caucus, by some of my friends merely as a prank, a supposed joke upon me during my absence'. A number of instances have been reported where domestic and farm animals bearing human names were elected."<sup>2</sup>

As to supervision, the following extract from the report is equally revealing:—

"An investigation of over forty States brought to light the fact that in only two of them do governmental agencies exercise the slightest supervision over justices of peace. A questionnaire was sent to all the Attorney-Generals . . . Thirty-two of the thirty-seven Attorney-Generals stated no agency had supervisory powers over justices of the peace in their States. A county office was named as the supervisor by the other five Attorney-Generals (subsequent study found these ineffective)."<sup>3</sup>

13. It would seem therefore that the system of lay justices has failed in America because it has been allowed to fail. It is significant in this connection that the few States which have embarked upon programmes for overhauling the system have recorded considerable success. For example, in Pennsylvania after attempts to abolish the system proved unsuccessful, a series of classes were conducted for the benefit of justices. According to Vanderbilt, this activity has improved the functioning of courts of justices.<sup>4</sup> This goes to show that even in a highly urbanised country like the United States of America, where distances do not count, where the common man

Conclusions  
from U.S.A.'s  
experience.

<sup>1</sup>The report is reprinted in Appendix C (pp. 678—691) of Vanderbilt's publication op. cit.

<sup>2</sup>Vanderbilt : op. cit. p. 683.

<sup>3</sup>Vanderbilt : op. cit. p. 679.

<sup>4</sup>Vanderbilt : op. cit. p. 316.

is sufficiently well off not to grudge the expenses of litigation, a system of lay justices can function satisfactorily if provision is made for suitable safeguards as to selection and training of personnel and supervision.

### *Peoples' courts in Russia*

Soviet system of lay judges.

14.1. If in England and the United States of America the assignment to lay men of functions of administration of justice is the result of an empirical approach, in the case of Soviet Russia it is the result of a deliberately chosen political philosophy. Lenin formulated the proposition:—

“... every representative of the masses, every citizen must be placed in conditions which would enable him to participate in the discussion of the State laws, in the election of his representatives and in putting the State laws into practice.”<sup>1</sup>

Elsewhere Lenin observed:—

“The court is an instrumentality to attract every individual member of the poorest classes to State administration.”<sup>2</sup>

Peoples' courts in Russia.

14.2. Though in Russia, lay men sit on even the highest tribunals and judges of even the highest courts are elected, it is sufficient for our present purposes to consider the peoples' courts which stand at the very bottom of the Russian judicial system. Provision is made for the establishment of a peoples' court for each district (*raion*), a territorial sub-division corresponding to a county in England. Peoples' courts consist of peoples' judges who according to the Judiciary Act of 1938 are to be elected by the people of the county by secret ballot on the basis of universal, direct and equal suffrage, for a term of three years.<sup>3</sup> The peoples' judge is a professional judge in the sense that judgeship during the term of his office is a full-time job for which he is paid. But he need not be trained in law and the majority of judges do not possess legal qualifications.<sup>4</sup> The electorate has the right to recall a judge before the expiry of his term.

14.3. Subject to a few exceptions,<sup>5</sup> the peoples' judge has to sit with two peoples' assessors in deciding cases. A number of peoples' assessors are elected for each peoples'

<sup>1</sup>V. I. Lenin, Works, 4th Russ. ed. vol. 27, p. 185, cited in Denisor and Kirichenko : Soviet State Law. (1960), p. 21.

<sup>2</sup>Cited in Vyshinsky : The Law of the Soviet State (1948 Translated edn) p. 505.

<sup>3</sup>Vyshinsky : op. cit. p. 521.

<sup>4</sup>Gsovski and Grzybowski : Government, Law and Courts in the Soviet Union and Eastern Europe. (1959) Vol. 1, p. 529.

<sup>5</sup>For example, cases involving violations of labour discipline.



court in the same manner as peoples' judges. Under a 1958 reform peoples' assessors are elected for a term of two years.<sup>1</sup> Though elected for a period of years, each assessor has to serve only for a period of 10 consecutive days in a year. The assessors are selected to bring to a case the 'commonsense approach' of the members of the community.<sup>2</sup> The term 'assessor' is rather misleading as the peoples' assessors have an authority to share with the peoples' judge the decision on all questions whether relating to the demeanour of a witness or the construction of a statute. The decision is by majority and the assessors can outvote the peoples' judge.<sup>3</sup>

14.4. The peoples' court is a court of original jurisdiction "It considers the substantial majority of criminal and civil matters, all criminal and civil matters (excepting those assigned by special directives of the law to the jurisdiction of higher courts) being within its jurisdiction as a general rule."<sup>4</sup>

15. The system of peoples' courts, with only minor modifications, obtains in all eastern European countries having a form of government based upon philosophy similar to that of Soviet Russia. It is enough in the present context to mention the names of some of these countries. These are Bulgaria, Czechoslovakia, Hungary, Poland and Rumania. It would, however, be useful to consider the "peoples' courts" in Yugoslavia separately as the Russian system of courts which was introduced in 1946 has undergone some changes in recent years.

Peoples' courts in eastern European countries.

16. In Yugoslavia, under the Judiciary Act of 1954, legal qualifications—graduation from a law school and the bar or judges' examination—have been made specific requirements for judgeship<sup>5</sup> so that the peoples' court system in that country is now more akin to the German *schoffen* system (trained lawyer judge and two lay men). At the same time it is significant to note that in recent years efforts are being made in that country in the direction of setting up exclusively lay tribunals more or less based on ideology similar to that underlying our Indian *panchayats*. These are the village conciliation committees. Members of these committees are elected by the citizens themselves at their meetings, at conferences of voters or meetings of

The Yugoslav system and conciliation committees.

<sup>1</sup>Hazard : The Soviet System of Government (2nd edn., 1960, 1961 impression), p. 164.

<sup>2</sup>Hazard : op. cit. p. 184.

<sup>3</sup>Hazard : op. cit. p. 185.

<sup>4</sup>Vyshinsky : op. cit. p. 521.

<sup>5</sup>Gsovski and Grzybowski : op. cit. p. 816.

local branches of the socialist alliance. The procedure followed before the conciliation committee is simple. The parties explain their points of view and the committee, untrammelled by any canons of procedure, makes recommendations as to how to solve the causes of conflict between the parties. The function of the committee is not to pass judgment but to arrive at a solution voluntarily accepted by all parties in dispute. It would seem that these committees have proved to be very popular. Their number has been steadily increasing. Regarding the work of the committees the following extract from an article in the January part of 'Yugoslav Life' may be quoted:—

"Although conciliation committees are young institutions, they have already exerted a noticeable influence on every day life. Statistics on court cases show that the number of people who start litigation for insignificant reasons is decreasing. In the territory of only one district, the district of Uzice, conciliation committees solved more than 900 disputes in a year's time."

Lessons to  
be drawn  
from the  
Russian  
and Yugoslav  
systems.

17. What are the lessons to be drawn from the participation of lay men in the administration of justice in Soviet Russia and other countries having legal systems based on the Russian system? Our task in this connection is not an easy one. Without adequate materials it will be rash to make any generalisations. One fact is incontrovertible, namely that peoples' courts have been functioning in these countries for a few decades and that in Yugoslavia people have taken the initiative by setting up conciliation committees. The conclusion therefore seems reasonable that the Russian and kindred experience justifies the assumption that lay men may be trusted with administration of justice.

Conclusion.

18. In the preceding paragraphs we have attempted a brief survey of the participation of lay men in the administration of justice in some of the leading systems of administration of justice in the world, not with a view to imitation or assimilation but with a view to merely showing that it would be rash to hold that lay men cannot be or ought not to be entrusted with the administration of justice. With proper safeguards in relation to the quality of the personnel, the nature of the jurisdiction sought to be entrusted and the supervision to be exercised, it should not be difficult to make any institution of lay judges successful, if the need for it is there.

## CHAPTER IV

### THE CASE FOR NYAYA PANCHAYATS

1.1. Having discussed in brief the history relating to panchayats in ancient India and the institutions in other countries with which our nyaya panchayats could be compared, we now proceed to deal with the question whether the continued existence of nyaya panchayats is necessary in the present context.

General.

1.2. Administration of justice by the villagers themselves at the village level, as stated earlier, is a matter of historic antiquity and though there was a swing of the pendulum in favour of centralisation during the Mughal and early British days it was not long before the British themselves realised that having regard, in particular, to its historic past and to the deep rooted sentiments attached to the panchayati institution, the pendulum must be made to swing in the other direction, namely, in favour of a certain amount of decentralisation.<sup>1</sup>

1.3. India continues to live in the villages as in the past. From the provisional population totals obtained in the census of 1961, it would appear that about 82 per cent. of the population of India lives in rural areas. Out of the total population of 436,424,429 (excluding Manipur, Nagaland and N.E.F.A.) 358,584,529 live in rural areas and 77,839,900 live in urban areas. If independence is to have any meaning to the villagers, it is argued that there should be such a decentralisation of power that the mass of the people feel that they are actually participating in the business of administration and in other aspects of community life—social, economic and judicial. Enlargement of franchise, however broad-based, will be no substitute for such decentralisation and it is further emphasised that a centralised form of Government cannot be a Government by the people, and rarely can it be a Government for the people. The Father of the Nation had also observed: "If the village perishes, India will perish too. India will no longer be India. Her own mission in the world will get lost."<sup>2</sup>

India still lives in its villages.

1.4. It is therefore in the fitness of things that in republican India one of the directive principles to be followed by the States is the organisation of village panchayats

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<sup>1</sup>It would be interesting in this connection to refer to what the Chief Commissioner of Burma said in 1887 :—"The custom of referring disputes of all kinds to village elders is deeply rooted in the nature of the people, and it still prevails to a considerable extent, notwithstanding the introduction of definite laws and codes". Report, Civil Justice, Lower Burma, 1887, Orders of Chief Commissioner, paragraph 1.

<sup>2</sup>Harijan, August 29, 1936.

with such powers and authority as may be necessary to enable them to function as units of self-government. In pursuance of this directive principle of State policy and in conformity with India's age-old tradition, a programme of community development on a nation-wide scale was launched as early as 1952 to tackle problems of rural life.

Democratic decentralisation after independence.

2. An intensive and co-ordinated programme of "democratic decentralisation" has therefore been undertaken and legislation has been, or is being, undertaken to introduce a three-tier system of rural administration in which the gram panchayat, [the Cabinet of village elders elected by the adult citizens of the village (the gram sabha)], will be the chief executive authority in charge of village affairs. A panchayat samiti at the block level (that is to say, for a group of villages with a population of about 60 to 70 thousands and covering an area of 150 to 200 square miles) will take full responsibility for administering all developmental work within the territorial jurisdiction of the block and will assist the gram panchayats in the formulation and execution of plans. It will consist of the presidents of the gram panchayats in the block or alternatively members elected by an electoral college of panchas in the block. It may have other members also. The third body above the gram sabha is the zila parishad at the district level. It consists of representatives of panchayat samitis, the members of the State Legislature and of Parliament residing in the district and representatives of a few other organisations like co-operative societies which form an integral part of the life in the district. This body will in the main supervise the work of the gram panchayats and the panchayat samitis.

Setting up of nyaya panchayats.

3. A part of this "democratic decentralisation" consists of the revival or re-vitalisation of nyaya panchayats, and the object of the present Report is to make an appraisal of the working of these institutions wherever they have been set up. It must be observed in this connection that in a few States nyaya panchayats of the new pattern are still to be set up, e.g., in Assam, Mysore and West Bengal, and perhaps the Study Team could, with greater advantage, have been appointed a few years later. However, ample material has been made available to the present Team both in the shape of answers to its questionnaire and also during the course of its tours in all the States, and therefore it should not be difficult for it to formulate its general conclusions on the subject.

Their utility.

4.1. That the nyaya panchayats wherever they are in existence are serving a useful purpose cannot be gainsaid. The Law Commission itself had found that in Madras the village courts had been able to dispose of a large number of petty suits. The then Madras Government in 1923 had observed that the village courts were affording substantial relief to the ordinary civil courts and that by dispensing speedy justice in simple cases were gradually laying claim

to be recognised as useful institutions.<sup>1</sup> The statistical information furnished to us in certain States is added testimony to the utility of these institutions.<sup>2</sup>

4.2. Although no systematic survey of the functioning of nyaya panchayats in the country has so far been made, there are a few reports which contain commendatory references to these institutions. For example, in the Madras Administration Report for the year 1956 the following observations are to be found:—

“The Government observe that the statistics bear testimony to the growing popularity of the village courts. The Government are glad to note that an increasingly large number of citizens are taking recourse to the cheap and summary methods of settling petty disputes in civil and criminal cases. The Government trust that these village tribunals will ultimately help to minimise litigation and in general improve the social atmosphere of the villages.”<sup>3</sup>

Again, in the report for the year 1959, the Government of Madras noted that the village courts continued to be popular with the villagers.<sup>4</sup> In Bihar, the gram cutcherries are said to have worked well on the whole. In the years 1955—57 they had amicably settled 70 to 75 per cent. of the cases and that too in quick sittings. This conciliatory approach, according to the Government report, had helped in restoring good feelings between parties and in creating a sound healthy atmosphere in the village life.<sup>5</sup> A committee appointed by the Government of Uttar Pradesh had occasion to study the working of nyaya panchayats in that State in connection with certain amendments to the local Act and they observed that “In spite of the shortcomings, lack of experience and training and regardless of the stare and blinking of millions of suspicious eyes, the *adalati panchayats* have established a unique record by disposing of 9 lakhs of cases of which only in two per cent. revisions were allowed.” That committee was unanimously of opinion that *adalati panchayats* had been rendering valuable service to the people in the rural areas and it recommended the retention of all the nyaya panchayats and the conti-

<sup>1</sup>Fourteenth Report of the Law Commission, p. 875.

<sup>2</sup>In Appendix V we have reproduced the statistical data in relation to some of the States as furnished by the respective State Governments. We have noticed a few discrepancies and errors in the figures but these in our opinion are not of such a nature as to detract from the general conclusion that nyaya panchayats are doing useful work.

<sup>3</sup>Govt. of Madras, Home Deptt. G.O. No. 169, dated 20th January, 1959.

<sup>4</sup>Govt. of Madras, Home Deptt. G.O. No. 157, dated 10th Jan. 1961.

<sup>5</sup>Annual Administration Report for Gram Panchayat Department for the years 1955-56 and 1956-57, Bihar, p.23.

nuance of the experiment of associating the people with the responsibility for administering justice in rural areas.<sup>1</sup>

**The attitude of the public towards nyaya panchayats.**

5. The decision of the Government of India to appoint a Study Team on the subject has given us an opportunity to discuss the utility or otherwise of nyaya panchayats in greater detail with persons of most varied social and political backgrounds, jurists of many tendencies, leaders of public opinion as well as other persons. We have met Ministers, legislators, High Court Judges, officials connected with the administration of panchayat institutions at various levels, non-officials including nyaya panchas and other villagers, members of the Bar—in fact men from widely different walks of life—both at the State and district headquarters and in rural areas, men whose views would be entitled to the greatest weight in considering problems of this kind. As “panchayats are generally the target of ridicule in the parlours of our urban folks”<sup>2</sup>, the views urban witnesses were most welcome in this connection. And it is significant that except for an infinitesimally small fraction of members of the Bar whose opposition to nyaya panchayats appeared to stem from a fear that their earnings may be affected by the continuance of these institutions, every one whom we have met appears to be genuinely interested in the continued existence of these institutions. We have had the benefit of the views of High Court Judges, Ministers, Legislators, officials at headquarters and at district levels and other persons prominent in public life, and no one has come forward to condemn the institution in principle.<sup>3</sup> And if the voice of the villager is to be heard, and perhaps he has the biggest say in the matter, there is not one villager in the whole of India, judging from the evidence before us, who wants the institution to be scrapped. And our itinerary included some unscheduled villages as well.

**Why nyaya panchayats are favoured.**

6.1. The reasons for this near unanimity of opinion are obvious. Local courts, acquainted with the customs of the neighbourhood and the nuances of the local idiom are better able to understand why certain things are said and done. To require the parties in a small dispute in a village

<sup>1</sup>Report of the Uttar Pradesh Panchayat Raj Amendment Committee, 1954, pp. 29 *et seq.*

<sup>2</sup>S. K. Dey, Panchayat-i-Raj, p. 13. In this connection it may be interesting to record that a case in a village where, by way of retaliation for the molestation of a woman, the father of the woman molested and his men caught hold of the sister of the person accused of molestation, stripped her naked in full view of the public and exposed her to public gaze for about an hour, was referred to in certain urban newspapers as illustrative of the manner in which nyaya panchayats try cases and inflict punishments, although the matter was entirely between two rival groups and no nyaya panchayat was involved. See the decision of the Allahabad High Court in *Raghunath Singh and others vs. the State*, Cr. Rev. No. 540 of 1961 connected with Cr. Rev. No. 541 of 1961, Judgment, dated 20-8-1961.

<sup>3</sup>A few officials appeared to favour the continuance of this institution, not so much on the basis of its intrinsic merit, as on its administrative utility.

to present themselves at the tehsil or district headquarters or some other distant centre, complete with their exhibits, their witnesses and their legal advisers, and there to wait perhaps several days because the previous case had taken longer than expected or for some other reason, would involve an expense completely out of proportion to the subject-matter. Our law courts are not cheap and the complaint generally made against them is that they are procedure-ridden and cases are long drawn out. The villager is prepared to, and does, welcome an institution near at hand composed of men who, although they may make mistakes in the procedure, know the people and to a great extent give them satisfaction. In the opinion of the villagers, an institution of this nature provides greater opportunities for settlement, and any decision given does not leave behind that trail of bitterness which generally follows in the wake of every litigation in the ordinary courts. The desire to fight out every case to the bitter end which is ordinarily associated with a court litigation tends to disappear, particularly because of the conciliatory method of approach adopted by nyaya panchayats to problems coming before them. A very strong argument put forward by the villagers themselves in favour of nyaya panchayats is that in the village it is difficult for any person to speak an untruth and corruption and suborning of false evidence find very little room for play.<sup>1</sup> In the Kulu valley it was pointed out to us that in the village a man who is prepared to tell lies before the nyaya panchayats would be looked upon with disrespect and may even be boycotted. Panchas drawn from among the simple village folk are fully alive to their responsibilities to see that their decisions are fair. Apart from the fact that nyaya panchayats are not new institutions which are being introduced in the villages as a novel experiment in the administration of justice, it is said that they are the remedy for many of the evils associated with the ordinary courts for which no adequate remedy has so far been found. And views have been put forward before us that these institutions are so useful that they may be extended to urban areas as well in respect of petty matters. In fact, some of the nyaya panchayats we visited, particularly in the States of Madras and Kerala, smacked of urban courts rather than of village courts and provision is to be found in some Acts for the extension of this principle to urban areas as well. We do not, however, propose to go into this aspect of the matter as it involves other considerations.

6.2. A system of administration of justice based on sound common sense which is made available at the door-step of the village which is cheap and effective, which is not

<sup>1</sup>An illustration of this was afforded to us in our tour in Bihar where during the hearing of a case by a nyaya panchayat the statement of one of the parties that a certain property belonged to him was received with an exclamation of surprise by the villagers assembled there who let out a loud remark that the person was telling an untruth.

procedure-ridden with its consequent delays, which seeks more to compose differences than perpetuate them, which is undertaken by persons who live in the same area, speak the same language and perhaps think alike on many matters, which is homely, informal and open to the public gaze and which has a hoary past is bound to command ready acceptance and this perhaps explains the near unanimity which exists on the subject.<sup>1</sup>

Criticisms  
against  
nayaya  
panchayats.

7. On the other hand, one must not forget the criticisms that have been levelled in the past and continue to be levelled against these institutions. For instance, in 1912, when criminal jurisdiction was sought to be vested in panchayats, the Judges of the Punjab High Court observed that they viewed with alarm the idea of entrusting wholly untrained, inexperienced and often uneducated persons, with no knowledge of law or of elementary principles of the administration of justice, with powers, which, though in themselves apparently small, can be used to cause an infinite amount of injury. In two comparatively recent decisions, the High Courts of Madras and Punjab have in no mild language condemned the panchayats as unworthy instruments for the disposal of disputes.<sup>2</sup> One or two persons giving expression to their views through certain journals have stated that the whole panchayati experiment is an exercise in frustration. We have, therefore, to consider whether the criticisms levelled against the institutions are so strong or so substantial that, notwithstanding our best intentions, its continuance is not possible or whether suitable remedies could be found for removing the defects on which the criticisms are founded. We may now examine some of the general criticisms.

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<sup>1</sup>Talking of the village panchayats of old, John Mathai has the following remarks to offer:—(Village Government in British India, p. 184).

“They had no codes of law, either substantive or adjectival, in which whatever ideas they had could be embodied in any fixed form, nor, so far as we may make out, had they any written record of their decisions spreading over many generations. They merely trusted to their native wit, to experience, to a shrewd sense of passing events, to a fleeting memory of what their forefathers did. They were plain men of the world, unsophisticated by much education, who, in spite of frequent failures, tried by whatever means lay in their power to heal quarrels and make peace, and knew by bitter experience how good a thing it was for brethren to dwell together in unity. That the revival of such an institution should bring back with it any fixed system of revolting ideas is incomprehensible. It is also not defensible to say that in any attempt to revive them, they would necessarily be so transmuted as not to be distinguishable from the regular tribunals. These tribunals deal with the formal suit, with the quarrel fitted up in all the trappings of the law and made to look bigger than it really is. They do not and cannot go to the root of the quarrel and settle it before men waste the fortunes of a lifetime on it.”

<sup>2</sup>*Venkatachala Naicken Vs. The Panchayat Board of Eihapur*, 1952, M. W. N. 912 ; *Marwa Manghani Vs. Sanghram Sampat* A.I.R. 1960, Punjab 35.



8. The first criticism is that our villages are generally faction or caste ridden and that nyaya panchayats cannot function with any degree of success in such an atmosphere. This criticism was advanced before the Civil Justice Committee of 1924-25 and continues to be advanced still. The Civil Justice Committee pointed out that in villages where there are common interests to be protected, common services to be rendered and common funds to be administered, it is idle to ignore the common life of the village in which the necessities of neighbourhood have held their own or have prevailed against the divisions of caste. Although the evidence placed before us by the villagers naively sought to make out that elections to panchayats, including nyaya panchayats, are not fought on the basis of caste or group rivalries, it is idle to deny that factions and groups exist in the villages as they perhaps do elsewhere also. Yet in spite of the existence of factions, the reports on the working of nyaya panchayats of the Governments of Bihar, Madras and Uttar Pradesh and the evidence obtained by us as to the functioning of nyaya panchayats show that in the actual administration of justice the existence of factions and groups has not had any pronounced effect. Revision applications against the decisions of nyaya panchayats throughout the country have been few and successful revision applications fewer still, and no villager in any of the many villages we visited has come forward to express dissatisfaction with the manner in which justice is being administered by nyaya panchayats. While not minimising the existence of groups and factions, we do not think this in any way militates against the continuance of nyaya panchayats. On the other hand, it should not be difficult to find measures whereby any undesirable effects arising therefrom are removed or minimised.

9.1. In Madras a view was put forward that after the second world war there has been a change in the old time values and after independence, in addition to groups and factions, differences based on political affiliations are likely further to pollute the village atmosphere, and a judiciary which is elected on party lines can never command the confidence of the public. The views of the Madras Government are entitled to the greatest weight because of its long experience of village courts. A section of the official view also does not appear to be enamoured of a popular or peoples' court. The Home Minister of that State, whose association with the Government as a Minister spreads over many years, rejects the idea of an elected court altogether. According to him, in view of the great importance attached to the administration of justice there can be no room for the elective principles to operate. Justice is for the individual and not for the people at large and therefore there is no comparison between the executive gram panchayat and the nyaya panchayat. In elections there are fierce contests and quite often undesirable practices are followed in fighting the elections. In the Minister's view, if the insti-

Criticism based on factions, caste, etc.

Political affiliations and elections.

tutions are to be retained at all, they may be allowed to function as compromise-effecting agencies, and not as instruments for trying cases. Curiously enough, the Minister had no objection to these nyaya panchayats trying petty criminal cases.

9.2. These are very strong arguments. They pre-suppose many things, as for instance, that villagers can never be trusted to elect proper persons to decide disputes amongst themselves, that persons elected on party lines, if that happens to be the position, are not likely to do justice as between members of their own party and another party, that no safeguards are possible to counteract any such undesirable results being produced in elections or in the actual working of nyaya panchayats, that notwithstanding the Administration Reports of the Madras Government, itself which have given the village courts a good chit and which have no criticisms to make against the elective system, the institutions have not, in fact, worked satisfactorily. In this connection it must, however, be added that the official fear, where it exists, appears to a large extent to be based more on the shape of things to come hereafter than on anything which has happened earlier.

9.3. Although the fear expressed may not be without foundation, do the arguments advanced lead us to the irresistible conclusion that the nyaya panchayat institution should be scrapped altogether? Apart from the Minister, even the official view of the Madras Government does not go to this length. Can we not find ways and means whereby proper persons are chosen to man nyaya panchayats? Can we not think of sufficient safeguards to ensure that affiliations based on party, religion, language and the like do not in any way colour or prejudice the decisions of nyaya panchayats? Can we not think of suitable correctives in the shape of training, inspection, judicial revision, removal from office and the like? Above all, as some villagers in the State of Andhra Pradesh put it, whoever is chosen to administer justice, he will necessarily have to be chosen from the village and the presence of his co-villagers in the neighbourhood will always be a sufficient corrective, and no person in his senses can afford to go wrong in such circumstances.

**Want of  
training.**

10. It is said that the type of "banyan tree justice" to which our forefathers were accustomed is not suited to modern conditions, and justice should be administered only by trained persons with adequate knowledge of law who should try cases in places away from the localities of the parties so that local prejudices do not colour the issue and greater detachment is ensured. This criticism really flows from the fact that most of us cannot conceive of any system other than the one transplanted into this country by the British—a system which is being criticised by many as expensive, procedure-ridden, formal, precedent-bound and

inelastic; in which procrastination, delay and hair-splitting arguments by highly paid and able advocates often tending to confuse the issues involved are such common features; and which not infrequently ends in a failure of justice as commonly understood. These criticisms are referred to here not with a view to belittle the present system which has served us well. But the question is whether such a system which may be admirably suited for the disposal of big cases is either suitable or necessary for the disposal of the hundreds of small disputes which may arise in the rural areas. Perhaps the suggestion underlying the present criticism is that, if the circumstances do demand it, a civil or a criminal court may be established in or near the village itself which, in the trial of petty cases, would follow an informal procedure and which may dispense with legal practitioners, court fees and the like. To insist on such courts, however, would necessitate a multitude of legal officials, half of whose time would perhaps be spent in awaiting cases to be tried because petty cases are not likely to be many. To arrange that such legal officials should travel from place to place would involve considerable loss of time and expense to the tax-payer. The expenses to the State exchequer in providing for such courts with all their necessary paraphernalia would not be commensurate with the results to be achieved. But above all, it would put to death an institution of respectable antiquity which is said to be working fairly satisfactorily, which appears to be capable of improvement, which is welcomed by the villagers and, what is most important, which gives the villagers an added importance and responsibility which they are willing to shoulder.

11. It was also faintly suggested that by the constitution of nyaya panchayats some amount of encouragement has been given to petty litigation which is really not desirable and that there is no real relief to the ordinary courts. That the ordinary courts have obtained some relief is already proved in ample measure by the few reports which have come into our hands and as and when the jurisdiction comes to be increased this tendency is bound to be more pronounced. Further, if there are petty disputes between villagers, is it not better to devise some cheap machinery by which they can be settled and differences composed in the interests of the village, than to suppress them or allow them to smoulder? **As encouraging petty litigation.**

12. Some persons who gave evidence before us stated that, if the jurisdiction of nyaya panchayats were made concurrent with that of the ordinary courts, litigants would certainly prefer the latter, suggesting thereby that they have not much faith in nyaya panchayats. This involves a hypothetical statement. Even so, when this was put to some of the villagers whom we met, their answer was striking. They said that, left to themselves, they would not go to the ordinary courts. Very often it was the profession- **As not being popular.**

al touts who dragged them to the ordinary courts. In addition, persons who are well to do and have a weak case are likely to prefer the ordinary courts particularly if their adversaries happen to be men of no means or small means.<sup>1</sup>

**Other criticisms.**

13. A few other criticisms were also made. For example, it was said that panchas are some times in the habit of assuming jurisdiction in cases beyond their competence merely as a matter of prestige, or that the provision for appeal or revision is not always satisfactory because fear of local influences often deter the injured party from coming up for redress to a higher authority, or that compromises may be forced on the people. These appear to be criticisms of a somewhat minor character, and it should not be difficult to find an adequate answer to them in the shape of training, inspection, supervision and the like.

**Present tempo of life in villages.**

14. Our tours throughout the country have left us in no doubt about the general awakening of the people in the villages. The ushering in of community development schemes and panchayat-i-raj has brought about a big change in the pattern of life in the village. The villager, though often illiterate, has never been an ignorant person, and with the new responsibilities imposed on him he has begun to grow in stature. He is now eager to learn, eager to be trained in steering the small ship of administration which is now being placed in his charge, keen to shoulder his responsibility. If a person who had seen our villages in the years gone by were to re-visit them now, he will find that a remarkable change has taken place in the meantime. With schemes for water-supply, irrigation, lighting, education, sanitation, roads, storage godowns, panchayat ghars for the transaction of village affairs and for a whole host of other matters, the village is now humming with activity and no longer gives the slumberous appearance which it might have done in the past.<sup>2</sup> Schemes for compulsory primary education are slowly beginning to produce their effect. Many of the panchas and sarpanchas with whom we had occasion to discuss the working of nyaya panchayats, even in the absence of any systematic training, showed an awareness of their powers and jurisdiction which was really surprising. They were able to make suggestions as respects the enlargement or otherwise of their existing powers of which they had made an intelligent study, the steps which may be taken to improve the working of nyaya panchayats and many other matters connected with that

1. John Mathai, in his book on Village Government in British India observes at p. 174:—

“The existence of other courts with rather slow and elaborate methods of procedure, composed of judges who did not know local matters too closely, was undoubtedly an incentive to a party conscious of a weak case to shun panchayats.”

2. In Bandipur village in Kashmir, the gram panchayat has even put up a beautiful hanging garden patterned on Shalimar, and the villagers whom we met exhibited an extraordinary enthusiasm for the work entrusted to them.

institution. To condemn the system under such circumstances would not only not be right but would definitely be retrograde.

15. We are therefore of the view that nyaya panchayats are satisfying a real-felt need of the villagers and that they should be continued. In the succeeding Chapters we discuss matters connected with their constitution, jurisdiction, training, supervision and the like with a view to ensuring that most of the criticisms levelled against them, if not all, lose their force, and that nyaya panchayats function in such a way as to attract an ever-increasing popular support.

Conclusions.

## CHAPTER V

### CONSTITUTION OF NYAYA PANCHAYATS

1.1. The question which has exercised our minds most is that relating to the manner in which nyaya panchayats may best be formed in order that they fulfil the purpose for which they are intended and at the same time command the maximum confidence of the village community. That this question is extremely difficult and raises several issues of importance is amply demonstrated by the wide variety in the methods by which nyaya panchas are now being or are to be chosen in the different States of India as is shown by the tabular statement below:—

Constitution of nyaya panchayats in general.

Name of State 1	Name and number of Act or Bill 2	Territorial jurisdiction 3	Mode of selecting nyaya panchas 4
Andhra Pradesh.	The Andhra Pradesh Village Panchayats Bill, 1959 (No. 36 of 1959) (as amended by the Select Committee).	For a group of 3 to 7 villages.	By indirect election, each gaon panchayat in the group electing one member and all the gaon panchayats collectively electing two members, one representing women and the other scheduled castes or tribes.
Assam	The Assam Panchayat Act, 1959 (XXIV of 1959).	For a group of 5 or more gaon sabhas.	District judge selects 5 members out of a panel composed of two elected representatives from each of the gaon sabhas in the group.
Bihar	The Bihar Panchayat Raj Act, 1947 (7 of 1948).	For a gram panchayat which may be for one village, part of a village or a group of villages.	Nyaya sarpanch and four panchas are elected by the gram panchayat. Four members are nominated by the joint meeting of sarpanch, all the elected panchas and all the elected members of the executive panchayat excluding the mukhiya.

Name of State	Name and number of Act or Bill	Territorial jurisdiction	Mode of selecting nyaya panchas
1	2	3	4
Gujarat	The Gujarat Panchayats Act, 1961 (VI of 1962).	For a group of villages (grams).	By indirect election, each gaon panchayat in the group electing one member.
Jammu and Kashmir	The Jammu and Kashmir Village Panchayat Act, 1958 (XXIII of 1958).	For a gram panchayat.	A committee of the gram panchayat is elected by its members as the nyaya panchayat.
Kerala	The Kerala Village Courts Act, 1960 (VI of 1961).	For a village, group of villages or a panchayat area.	Appointed by the Government in consultation with gram panchayats wherever they exist. Such consultation takes the form of a panel of names being submitted.
Madhya Pradesh.	The Madhya Pradesh Panchayats Bill, 1960 (No. XVII of 1960).	For a circle*	By indirect election, each gaon panchayat in the circle electing such number of members as may be prescribed in this behalf. In the case of Adivasi panchayats, the sarpanch is nominated by the Government and panchas are directly elected.
Madras	(a) The Madras Village Panchayats Act, 1950 (X of 1950).	For a village.	By direct election. Gram panchayat functions as the nyaya panchayat as well.
	(b) The Madras Panchayats Act, 1958 (XXXV of 1958).	For a village, group of villages or part of a village.	By direct election. But gram panchayat would not function as nyaya panchayat. If there is no nyaya panchayat, a village munsif is appointed by the Collector.
Maharashtra	The Bombay Village Panchayats Act, 1958 (III of 1958).	For a group of not less than 5 villages.	By indirect election, each gaon panchayat in the group electing one member.

Name of State	Name and number of Act or Bill	Territorial jurisdiction	Mode of selecting nyaya panchas.
1	2	3	4
Mysore	The Mysore Nyaya Panchayats Bill, 1961.	For a panchayat or for a group of panchayats.	By indirect election, members of the gram panchayat or panchayats in the area electing five persons for the purpose from amongst themselves.
Orissa	The Orissa Grama Panchayats Act, 1958 (XV of 1958).	For a circle* consisting of one or more gram sasan.	By direct election, the electorate in each gram sasan being entitled to elect three members.
Punjab	The Punjab Gram Panchayat Act, 1952.	For a village or a group of villages.	By direct election. Gram panchayat acts as nyaya panchayat.
Rajasthan	The Rajasthan Panchayat Act, 1953 (XXI of 1953).	For a circle*	By indirect election, each gaon panchayat in the circle electing one member.
Uttar Pradesh	The U.P. Panchayat Raj Act, 1947 (XXVI of 1947).	For a circle*	Prescribed authority appoints panchas out of the members of the gram panchayats in the circle and under rules a member or all the members of a gram panchayat may propose names of panchas for consideration of the authority.
West Bengal	The West Bengal Panchayat Act, 1956 (I of 1957).	For an anchal panchayat, which is for a number of gram panchayats.	By indirect election by the members of the anchal panchayat out of the members of gram sabhas in the area. These panchas are to be approved by the Government.

#### UNION TERRITORIES.

Andaman & Nicobar Islands.	The Andaman and Nicobar Islands Gram Panchayats Regulation, 1961 (No. 4 of 1961).	For a gram	By indirect election, members of the gram panchayat electing 5 persons for the purpose from amongst themselves.
Delhi	The Delhi Panchayat Raj Act, 1954 (III of 1955).	For a group of gaon sabhas.	By direct election. Each gaon sabha in the group elects 2 or 3 panchas for the adalati panchayat.

Name of State	Name and number of Act or Bill	Territorial jurisdiction	Mode of selecting nyaya panchas
1	2	3	4
Himachal Pradesh.	The Himachal Pradesh Panchayat Raj Act, 1952 (VI of 1953).	For a circle*	By direct election by the gram sabhas in the circle, each gram sabha selecting fifteen members.

1.2. In approaching this problem, we have also kept in mind the following observations of the National Development Council made in 1959, although they were made in the context of the formation of executive panchayats:—

“While the broad pattern and the fundamentals may be uniform, there should not be any rigidity in the pattern. In fact, the country is so large and panchayati raj is so complex that there is the fullest scope for trying out various patterns and alternatives. What is most important is the genuine transfer of power to the people. If this is ensured, form and pattern may necessarily vary according to conditions prevailing in different States.”

To some extent, the evidence before us reflects this approach, and quite a few witnesses in each State indicated a slight preference for the method of selection prescribed in that State to others for the reason that it is said to be based on public opinion and the conditions obtaining in that State. A Judge of the Madras High Court also impressed upon us the fact that it may not be possible to evolve one pattern for the entire country.

**Destrability or otherwise of executive panchayats exercising judicial functions as well.**

2.1. Before we proceed to discuss this matter in greater detail, we may dispose of the preliminary question as to the desirability or otherwise of applying even at the village level the principle of separation of the judiciary from the executive enshrined in the directive principles of our Constitution. Those who advocate a combination of the two functions in the same body argue that to carry the principle to the village and apply it to institutions like nyaya panchayats would be to carry it to ridiculous lengths; that the prestige of the executive panchayats will suffer if they are shorn of judicial functions; that the removal of judicial functions from the executive panchayats would be to prejudice the effective exercise of the developmental powers vested in them; that it may be difficult to find a number of sufficiently qualified people to man the two.

\*“Circle” is used, broadly speaking, to denote a viable area and in practice generally includes a group of villages.



institutions if they are kept separate; that it would lead to unhealthy rivalry and friction if two separate bodies are set up in the same village for the purpose. Punjab affords a striking example where the two functions are combined in the same body. In Jammu and Kashmir, a sub-committee of the gram panchayat is entrusted with judicial functions. And it is only in these two States that a sizable body of opinion was to be found in favour of this theory of combination, although even in these States the majority view appeared to be against it.

2.2. Analysing the evidence before us, it would be correct if we were to conclude that public opinion in general is definitely against the executive panchayat being entrusted with judicial functions as well. The reasons are not far to seek. If the quality of justice to be administered even by these village institutions is to remain pure and unsullied by any other extraneous considerations or influences, it is necessary to apply the principle of separation at all levels. Justice must not only be done but should manifestly and undoubtedly be seen to have been done, and no step should be taken which is likely to shake the faith of the common man in the impartiality of the persons chosen to administer justice, be it at the village or at the highest level. The very ground that, shorn of its judicial powers, the executive panchayat may become ineffective in the exercise of its functions, assuming that the argument has any force, knocks the bottom out of the case for a combination of powers. One cannot expect the common man to believe in the impartiality of such a body when its approach to problems connected with its villagers is not likely to remain uninfluenced by the amount of co-operation which is or is not extended to it in its developmental activities. Nor are we satisfied that the prestige of the executive panchayat is likely to suffer thereby. Its functions are so many and so varied and are of such great importance that its prestige does not require any additional or artificial prop to support it. These theoretical considerations apart, there are other reasons why such a combination is not desirable. The work to be discharged by the executive panchayat differs *toto caelo* from the work to be discharged by a nyaya panchayat requiring in the persons vested with such functions qualities of a different character. The institution for the administration of justice should be at a level intimately near to the people and yet not too near to be influenced by the traditional factions and quarrels in the village. A sense of detachment is absolutely essential in a judicial body and the executive panchayat is too near to the village to develop any such sense of detachment. Again, there are panchas who attach more importance to their judicial functions, while there are others who think that their executive functions are of greater importance. In either case, some portion of the work entrusted to them would suffer if there is to be a combination of both the functions.

2.3. In addition, as observed in a Punjab case,<sup>1</sup> the directive principles although not enforceable, are not idle words but have to be kept in view in enacting laws and if the conferment of judicial powers on the executive panchayats is not likely to ensure or guarantee real justice to the citizens (as seems to be the suggestion in that case) the powers should be taken away or the method of appointment of the panchas should be materially modified. We are satisfied that the vesting of judicial powers in the executive panchayats is neither necessary nor desirable.

**Grouping of villages.**

3.1. We have already observed that nyaya panchayats should be at a level which is not too near to be influenced by the traditional factions and quarrels in villages and this brings us on to the next question whether it is necessary to have a nyaya panchayat for every village. First, the statistical data made available to us in many places clearly reveals that there is absolutely no case for a nyaya panchayat for every village. The cases are not sufficient to warrant such a step. Secondly, to develop a sense of detachment and to avoid unhealthy rivalries springing up in the relatively small area of the village if two bodies were set up therein, it is essential that a nyaya panchayat should be slightly removed from the village, although not so far removed as not to be of use for the purpose intended. It is perhaps for these reasons that a view was put forward in some official quarters in Uttar Pradesh that the nyaya panchayat should really be at the Block level. A Block ordinarily covers an area of 150 to 200 sq. miles and an institution at that level cannot possibly have, using the language of the Chief Minister of Bihar in a slightly different context, a panchayati outlook, and therefore many of those who propounded this view had either to concede the necessity for another body at a much lower level or to withdraw their support to it on further consideration. In Mhow, in Madhya Pradesh, there is a kendra panchayat which is for about 100 villages and one may have to travel as many as 15 miles to reach its headquarters. This would have been unworkable and of little use had there been no provision for local conciliation committees in the various villages. We cannot obviously support the formation of nyaya panchayats for such large areas. In our view, to get the best results, there is no doubt that villages will have to be grouped,<sup>2</sup> and such grouping will depend upon

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<sup>1</sup>*Marwa Manghani v. Sanghram Sampat*, A.I.R., 1960, Punjab, 35.

<sup>2</sup>The observations of the Team for the study of Community Projects and National Extension Service at page 19 of their Report may also be noted in this connection—"In many States village panchayats are invested with certain judicial powers, both criminal and civil. There is, however, a feeling that they cannot exercise them freely within the limited area under their jurisdiction, without inviting the wrath of the party which loses the civil suit or the criminal case. We would, therefore, recommend that judicial panchayats may have a much larger jurisdiction than even a Gram Sevaks circle, possibly two or three such circles."

various factors like area, population, contiguity, compactness, means of communication and the like. No villager should be required to travel, say, more than 4 to 5 miles to reach his nyaya panchayat, that is to say, the nyaya panchayat should be easily accessible; it should not be burdened with far too many cases which would be the case if it were to exercise jurisdiction over a very large area like a Block. Besides cutting down expenditure, the system of grouping will result in neutralising, if not eliminating altogether, the factions and feuds in villages born of differences in caste, community, religion and, of late, political affiliations. On this point one need not share the somewhat pessimistic view expressed by Shri Chandrasekharan, Minister for Law and Revenue in the Kerala Government, that such a grouping may bring about further accentuation of the conflicting elements or the preponderance of a particular group, if all the constituent units comprised within the nyaya panchayat circle happen to belong to the same caste, community, religion or political group. While not rejecting such a possibility, we may dispose it of as being remote and not likely under ordinary circumstances.

3.2. In giving effect to our suggestion for grouping, it is likely that in a few places practical difficulties may be encountered. For instance, in many parts of Himachal Pradesh the villages are so scattered, each village being only a hamlet with a few houses, that grouping may mean that people have to travel long distances. In Kerala, on the other hand, broadly speaking, there are no villages as such and each village panchayat which has been arbitrarily formed has itself a very large population. Grouping of two or three gram panchayats in such a case may mean that the population to be covered would be very large indeed. There is another category in which for the gram panchayat itself a number of villages have been grouped. The solution in all these cases also should not be difficult. Where the population is large or where the villages are scattered, it may be sufficient for a nyaya panchayat circle to consist of, say, two gram panchayat areas. Where this suggestion is not practicable because the population involved is too large to allow even the grouping of their panchayat areas, the device of splitting the village into wards and treating each ward as a separate unit may serve the purpose. In short, in each case the tests may be suitably applied to ensure the maximum advantage being derived from the grouping adopted.

4. The next and the most important question for consideration is the actual method which may be adopted for constitution. Methods of constitution.

the purpose of constituting the nyaya panchayat. <sup>1</sup>Various views have been put before us ranging from outright direct election by the entire village population to outright nomination by Government. Striking a balance between these two extreme views a number of witnesses have suggested a sort of indirect election in which the gram panchayats comprised within the jurisdiction of a nyaya panchayat would send in a panel of names from out of which the prescribed authority could select the requisite number of panchas on the basis of educational qualifications, experience, maturity, reputation for honesty and integrity, etc. We may now proceed to examine the various suggestions.

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<sup>1</sup>It would be interesting to recall in this connection how certain committees for the administration of village affairs were formed in South India in the tenth century. As to this, John Mathai in his book "Village Government in British India" observed thus at pp. 27-28—

"The mode of election to the committees was as follows: The village with its twelve streets was divided into thirty wards. Every one who lived in these wards wrote a name on a ticket. The tickets were first arranged in separate bundles representing the thirty wards. Each bundle bore the name of the ward to which it belonged. The bundles were then collected and put into a pot and placed before the general body of inhabitants both 'young and old' in meeting assembled. All the priests were required to be present. The oldest priest among those present then took the pot, and "looking upwards so as to be seen by all people" called one of the "young boys" standing close by "who does not know what is inside" to pick out one of the bundles. The tickets in this bundle were then removed to another pot. After it had been well shuffled, the boy took one ticket out of this bundle and handed it to an officer called the Arbitrator, who received it "on the palm of his hand with the five fingers open". He read out the name, and it was then shouted out by the priests present in the assembly. Thirty names were thus selected representing each of the wards. Out of these thirty, twelve were appointed to the Annual Committee, twelve to the Garden Committee, and six to the Tank Committee. For the other two Committees, Gold and Pancha-Vara, and (the Committee of Justice was probably not a separate committee), the whole process was gone through again from the beginning. Of the thirty names thus chosen, eighteen were eliminated. The rest, twelve, were divided equally between the two Committees.

The chief qualifications for membership in the committees may be summarised thus:—

- (1) The person must own more than a quarter veli of tax-paying land.
- (2) He must live in a house built on his own site.
- (3) He must be below 70 and above 35 years of age.
- (4) He must have knowledge of the Mantras and the Brahmanas. Knowledge of certain specially important sacred writings will make up for a defective property qualification.
- (5) He must be conversant with business.
- (6) He must be virtuous and his earnings must be honest.
- (7) He must not have been on any of the committees for three previous years.
- (8) One who has been a member before, but failed to render a proper account, and all his relations, must be excluded.
- (9) Those who have been guilty of certain grave sins are also ineligible.

5.1. Nomination pure and simple, it is argued, has several advantages. It avoids all the evils associated with elections. It ensures the selection of the right type of persons. It tends to improve the tone of the nyaya panchayat. It ensures greater impartiality in the discharge of judicial functions. At the same time, the fact that the nominated panchas would be from the villages secures to the institution the necessary link with village life. To a possible objection to nomination on the ground that the power to nominate, if vested in a party government, may not always be properly exercised, it is said that the law could provide for the creation for that purpose of a special body composed of, say, the collector, the district judge and some other person, the argument being that such a body is not likely to be influenced by any outside pressure. As to who should compose such a body several suggestions have been made.

Nomination  
pure and  
simple.

5.2. We have first of all to consider how far in the present age of popular democracy a nominated nyaya panchayat is likely to command or inspire the confidence of the people which is so essential for its successful functioning. Whatever might be said in its favour and even if the personnel were to be chosen only from the villages, it is extremely unlikely that the villagers will regard it as one of their own institutions; they will regard it as any other court, an imposition from above. That this fear is not imaginary is amply proved by the fact that not a villager whom we had occasion to meet, and the number of villagers whom we interviewed was very large indeed, has come forward to support it. The few villagers who preferred nominations to elections in one or two States were mostly presidents of nyaya panchayats and their preference is perhaps easily explained. Most of the official witnesses also concede that nomination is no substitute for elections. In fact, not more than 5 to 6 per cent. of the official witnesses favoured direct nomination either by government or by a specially constituted body. A nominated nyaya panchayat cannot fit into the scheme of panchayat-i-raj as contemplated. As the Chief Minister of Maharashtra, Shri Chavan, put it forcefully, nomination is "contrary to the basic concept underlying the institution of panchayats". Even in nominations it would be difficult to find a person who does not belong to one group or party or another. Whosoever be the person in whom the power of nomination is vested, the actual recommendation will be that of a petty local official like the patwari. If nomination is preferred because of factions, it is significant that this argument has been continuously advanced for the last 40 or 50 years. Perhaps factions will always continue, human nature being what it is. The villagers in turn naively asked us whether factions are not to be found at other levels also. The real question is how far the existence of factions affects the present issue. It should also be noted that nomination is recommended purely as a temporary step even by its votaries. In our opinion,

democracy has taken sufficient roots in our country to rule out nomination. Our villagers have arrived at a stage, particularly after three fair, free and country-wide general elections, when they can be trusted to decide between what is good and what is bad for them. As Shri Basi Reddy, a Judge of the Andhra Pradesh High Court put it, "either you believe in decentralisation or do not. If you believe in it, you must leave it to the people to elect the judge". More than that, so much trouble, energy and money need not be spent in that direction if the only object is to create an institution fairly near to the people. The purpose could be well achieved by the appointment of a stipendiary judge for certain demarcated areas by a process of grouping of villages or otherwise and doing away with the cost in small and petty cases. In our opinion, any system whereby persons are nominated will not fit into the scheme of democratic decentralisation of justice.

5.3. This brings us on to the next suggestion that for some time to come a method which combines election with nomination may be tried. This suggestion takes various forms. It is said that a certain proportion of the members of the nyaya panchayat may be nominated, the proportion varying from witness to witness; or that the nyaya sarpanch alone may be nominated or that officers like sub-registrars may be declared by virtue of their office to be nyaya sarpanchas. In our opinion, whatever form the suggestion may take, it would not make any difference when we take into account the basic objection to the very principle of nomination which smacks of an imposition from above and reflects a distrust in the ability of the common man to manage his own affairs. Besides, we are afraid, that such a scheme of combination of election and nomination would sow the seeds of discord resulting in the nominated and elected elements pulling in different directions instead of working as a harmonious team with mutual respect and co-operation. While we appreciate the reasons behind these suggestions, namely, that during the formative stages it would be advantageous to adopt a device whereby the elected members, many of whom may not possess any educational qualifications, work under the guidance of a qualified person or persons, apart from any other reason, we have our own apprehension as to whether such a combination would not result in creating a certain inferiority complex in the minds of the simple villagers elected as nyaya panchas who may be constantly feeling overawed by the presence of such a qualified person or persons. For somewhat identical reasons, a provision which figured earlier in the Kerala Bill for the association of a legally qualified member was dropped before its enactment. The choice thus is between allowing the innate genius and robust commonsense of the simple village folk to flower in a free atmosphere and letting it fade under the shade cast by the nominated element.

5.4. Besides, on the question of providing the necessary guidance and help to nyaya panchas, we are suggesting elsewhere<sup>1</sup> the appointment of a special officer who would be entrusted with the task of rendering necessary guidance and assistance to the panchas in the discharge of their duties and if this suggestion were put into practice, we see no need for any other additional guidance in the shape of a nominated element.

5.5. In our opinion, nomination in whatever form has to be ruled out.<sup>2</sup>

6. Having come to the conclusion that nomination as a method of selecting some or all of the members of nyaya panchayats is not desirable, we proceed to consider the only other alternative available to us, namely, elections. Here again, several permutations and combinations are possible. The most obvious and simple method is direct elections. On the other hand, it is possible to conceive of indirect elections in various forms, the basic idea being that a select body of persons elected *inter alia* or exclusively for the purpose would in turn elect nyaya panchas. Various refinements of this principle are possible and these we consider in the following paragraphs.

7.1. First, on the question of direct elections. In our tours, we came across quite a sizable body of villagers who were not opposed to direct elections. In Orissa, the nyaya panchas are chosen by direct elections by the gram sasans in the nyaya panchayat circle, the elections to the gram panchayat and the nyaya panchayat being conducted more or less simultaneously, and, although opinion was divided on the merits of the system of direct elections, there was considerable support to it both in official and non-official quarters. As the Chief Secretary to the Government of Orissa put it, "The common man has to be trusted and he knows where his interest lies. Political considerations cannot sway him so much that he can ignore his own welfare." As an additional argument in favour of direct elections it was said that there was not much scope for bribery, especially when the decision is by show of hands. An election by show of hands is quick, cheap and eliminates the necessity for elaborate electoral rolls and campaigning for elections and the like. It was said that such a method also tends to build up character. On the other hand, in some of the places where the system of direct election prevails it was said that villagers were often deterred from exercising

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<sup>1</sup>See Chapter VIII on Training.

<sup>2</sup>It is interesting to note that the Attorney-General of India, Shri M.C. Setalvad, in the course of his evidence stated that although the Law Commission had recommended the system of nomination in its Fourteenth Report, his personal view was that once it is decided to establish nyaya panchayats there is no running away from the elected machinery and that election would be the best method for constituting nyaya panchayat.

their franchise properly having regard to the character and antecedents of the man contesting the election and quite naturally they preferred voting by secret ballot.

7.2. We must concede that for the creation of nyaya panchayats of the kind contemplated the villagers must be allowed a free hand;<sup>1</sup> otherwise the institution is not likely to fulfil the purpose intended. There is, however, a lurking fear in the minds of the majority of the witnesses, both official and non-official, that, for some years to come at least, the institution has to be carefully nurtured and consequently direct elections should not be resorted to for the present. This fear is shared by quite a few villagers also all over the country. Villagers do not deny the existence of groups and factions. They have been there in the days of old and will perhaps continue in some form or the other so long as villages continue to exist. But we should not over-estimate their significance. Elections very often leave a trail of bitterness behind and although political rivalries have not reached the village level in a perceptible manner, it is not improbable that in the future, candidates for gram panchayats may begin to fight one another on party labels. It is said that the villagers may be given some time more to get themselves familiar with elections to village institutions. The warning uttered by Shri Bhaktavatsalam, one of the Madras Ministers, is worth quoting in this context. He said "Election means contest and democratic science has not yet found any other mode than election. The question is whether you would entrust judicial functions to a body infested with party spirit. Where justice is to be administered, you cannot indulge in experiments of a dangerous character. . . . . It is to be remembered that it is an individual who is often the victim of circumstances and the community who seeks justice and not the people, and so what is meted out by the people's court may turn out to be no justice at all".

7.3. A view was expressed in one or two very responsible quarters that democratic decentralisation should not be rushed through. As stated earlier, while the preponderance of opinion, both official and non-official, is in favour of elections in some form or the other, the majority of those who favoured the elective method do not favour direct elections at least for the time being. In a body set up for the administration of justice it is essential that people

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<sup>1</sup>An evaluation of panchayat elections in 1960 in Punjab made by the Indian Institute of Public Opinion, at the instance of the Ministry of Community Development and Co-operation, comes to the outstanding conclusion that there is popular support for panchayat-i-raj. The system of elections in force in Punjab was favoured by as many as 82% of the general public and the elections had been conducted peacefully. The major conclusion arrived at by the survey team showed that analysis by age, literacy and religion were almost irrelevant to the structure of opinion. In the opinion of the survey team, education, occupation, religion and age had seemingly no impact on the character of popular support. This report would show that our fears as regards direct elections are somewhat over-estimated.



approaching it should not be apprehensive of obtaining real justice on the ground, whether imaginary or real, that the members of that body are likely to be influenced by the manner in which any person or persons voted in the elections to that body. While efforts should be made to ensure that persons are chosen for this body, as far as possible, by the general consent of the people, it is equally essential that the bitterness and hostility engendered by election campaigns are avoided as far as possible. If, short of nomination, any other method could be devised for producing satisfactory results, that may be adopted in preference to direct elections, and the method of indirect elections seems to us to afford for the time being the best possible compromise between the two views.

8.1. Having advocated grouping of gram panchayat areas for forming the nyaya panchayat circle, we think that the most satisfactory results would be obtained by a system whereby the members of the nyaya panchayat are elected indirectly. Such a system has several advantages. It avoids all the bitterness and strife associated with elections. The persons elected are not likely to feel that they are obliged to the electorate in any form. The small body of members of gram panchayats would be able to evaluate the merits and de-merits of the persons to be elected on the nyaya panchayat in a more dispassionate and sober manner. At the same time, the villagers are not likely to feel that they have been completely dissociated from the selection of candidates for the nyaya panchayat because it is their own elected representatives who would in turn be electing them for the nyaya panchayat. Being for a larger area and being indirectly elected, the nyaya panchas are more likely than not to exhibit a dispassionate and impartial attitude to questions coming before them.

Indirect elections.

8.2. Judging from the evidence before us, indirect elections are likely to obtain universal support if properly canvassed. Indirect elections have already been adopted in some of the State Acts now in force but they take different forms. In Keralā, under the Kerala Village Courts Act, 1960, the consultation with the gram panchayats which is a condition precedent to the appointment by the government of nyaya panchas takes the form of a panel of names being furnished by the gram panchayats in the nyaya panchayat circle from out of which the prescribed authority would select the requisite number of nyaya panchas. The protagonists of this view would not mind a panel of names being furnished by the villagers direct by a system of election. They say that if the electorate knows that the ultimate choice is to be with the Government or a prescribed authority, they would take special care to see that the names of only such persons as are likely to be accepted are sent up. This method, in their opinion, would also serve to give the villagers training in the art of choosing the right type of persons.

8.3. In West Bengal there is an anchal panchayat which is itself indirectly elected and which has a large territorial jurisdiction (co-terminous with the jurisdiction of the former union board), and the power to choose members of the nyaya panchayat for the anchal panchayat area is vested in that body. An additional safeguard provided is that the members elected to the nyaya panchayat by the anchal panchayat have to be approved by the government. The law, however, gives no indication as to the basis on which such approval will be given or withheld. This system is recommended by its votaries on the ground that it is doubly indirect and that the field of choice is very wide. Yet another method of indirect election suggested is to form an electoral college consisting of all the members of the gram panchayats in the nyaya panchayat circle and leave it to them to choose the nyaya panchas for the circle.

8.4. In our opinion all the above methods of indirect election are open to criticism. Apart from the fact that they proceed from a greater and greater distrust of the villagers, the larger the body chosen for electing the nyaya panchas the greater the opportunity for unhealthy bargaining amongst the members of that body for the election of certain favourites from one area in exchange for a similar concession for another area. The larger the body, the farther remote the members are from the villagers concerned. And the farther remote the body, the difference between such a body and a statutory body referred to earlier for the purpose of nominations becomes thinner, and the persons chosen for the nyaya panchayat may not always inspire that amount of confidence which a body nearer the village may do. As for the panel system, if we can trust the villagers to suggest three names, we can as well trust them to select only one name if one person alone is to be elected. Many of these methods, it would be noticed, involve the interposition of an outside body, either for approval or for selection. Above all, if ultimately we have to revert to direct elections, the sooner we educate the electorate in that behalf the better.

Mode of  
indirect  
election re-  
commen-  
ded.

9. In our opinion, a provision in the law for the election by each of the gram panchayats in the nyaya panchayat circle of the prescribed number of persons<sup>1</sup> from the village would secure to the maximum the advantages of the indirect election method suggested earlier, at the same time freeing it from the criticism levelled against the other forms of indirect elections. The Bombay and Rajasthan Acts envisage more or less a similar system.<sup>2</sup>

<sup>1</sup>It would be advantageous to ensure that no nyaya panchayat ordinarily consists of less than six persons.

<sup>2</sup>In this context, government may perhaps consider the issue of directions to gram panchayats to emphasise, what is otherwise obvious, that in the matter of such elections:—

(i) no member of the panchayat should regard himself merely as a representative of a particular party, group or caste;

10. A question that arises in this connection is whether the persons to be so chosen are to be from amongst the members of the gram panchayat or from the entire village community comprised within the jurisdiction of that gram panchayat. In our opinion, the discretion of the gram panchayat need not be fettered in any way. It is true that, when elected to the gram panchayat, the members of the gram panchayat become the representatives of the village community for the performance of certain specified functions which do not include the administration of justice, yet it may turn out that by reason of their special qualifications some of the members are more suited for judicial work and, having regard in particular to the likelihood of there not being sufficient number of persons in the village of the requisite qualifications to man nyaya panchayats, it would be advisable to leave it to the gram panchayats to choose members for the nyaya panchayat either from among themselves or from the entire village community. We would, however, recommend that if a member of the gram panchayat is elected to the nyaya panchayat, he should cease to be a member of the gram panchayat electing him. To allow him to be a member of both the bodies would not be in the public interest for the reasons advanced earlier against a combination of both executive and judicial functions in one body. Moreover, to invest some persons with a dual capacity may possibly give rise to friction and jealousy in the working of the two institutions. It is perhaps for this reason that in the Andhra Pradesh Bill it is provided that the presidents of gram panchayats shall not be eligible for membership of nyaya panchayats. In our opinion, there is no justification for treating the president differently from the other members of the gram panchayat in this regard.

Whether members of gram panchayats should be eligible to serve on nyaya panchayats.

11. We may be pardoned for a little digression if we want to refer to the commendable efforts made in certain parts of the country to eliminate bitterness and rivalries in the matter of elections to gram panchayats. In Punjab, unanimity is sought to be achieved in elections<sup>1</sup> by incentives offered by the Government in the shape of grants of

Unanimity in elections to gram panchayats.

(ii) the paramount consideration in electing members for the nyaya panchayat is the performance of judicial duties;

(iii) the members for the nyaya panchayat may be drawn, as far as possible from all sections of the community.

The 1948 Royal Commission on Justices of the Peace recommended the issue of somewhat similar instructions to the advisory committees in recommending names for appointment as lay justices.

<sup>1</sup>Various suggestions were placed before us as to whether elections to gram panchayats should be village-wise, or, to secure proper representation to all sections of the village, ward-wise, or, to eliminate manipulations and influences of caste, etc., should be based on a division of the village into groups of houses, the houses being grouped according to their numbers. We have, however, not gone into this question as 'not being necessary in view of our recommendations.

certain portions of the land revenue collected in the villages to the gram panchayats for developmental work. In many places, villagers are conscious of the fact that contests are not always healthy and very often they meet in advance to decide upon the candidates to be chosen.<sup>1</sup> While we are fully alive to the fact that unanimity obtained under pressure will only seek to drive underground conflicts which could have worse effects than the usually passing conflicts in an open election, all *bona fide* attempts to secure unanimity or to remove conflicts would pave the way for the successful working of gram panchayats, and when elections to gram panchayats have obtained unanimity or at least a large measure of approval, the persons chosen by such a body to the nyaya panchayat would undoubtedly enjoy even greater confidence.

**Chairman-ship of nyaya panchayat.** 12. Good chairmanship of the nyaya panchayat is essential to the proper conduct of its business, and it is perhaps for this reason that in places like Bihar a nyaya sarpanch is directly elected by the people. We do not think that this method is conducive to the efficient working of the institution. Where the nyaya sarpanch is directly elected, there is every possibility of the method leading to serious inconveniences and deadlock in the working of the nyaya panchayat. The presiding officer should have the backing and enjoy the confidence of the other members of the nyaya panchayat and this is possible only if he is left to be elected by the members themselves.

**Conclusion.** 13. We are aware that no one solution could ever produce complete satisfaction to the entire population. But having regard to all the issues involved, the evidence before us and the experiments now being tried out in the various States, we feel that the system of indirect election as advocated by us, preferably by secret ballot, should be able to produce the most satisfactory results consistently with our objective. And, while not desiring to recommend uniformity in the method of selection if it is likely to smack of compulsion, we feel that the method recommended by us has sufficient merit in itself to be capable of adoption uniformly in all the States.

**Term of office of nyaya panchayats to be staggered.** 14. Before we take up the next subject, we would like to endorse the recommendation of the Law Commission that in order to provide a continuity of trained panchas, notwithstanding their recruitment by periodical elections, a provision may be made in the law by which the vacation of their offices by the panchas may be staggered. This suggestion has obtained a large measure of approval, although there were a few persons who thought such a provision to

<sup>1</sup>In Bawla, a village near Ahmedabad in Gujarat, by common consent the youths of the village were given the initiative to select 15 persons for the panchayat and at a public meeting of all the villagers, the elders of the village selected the requisite number out of the 15 names by unanimous consent and thus avoided all contests.

be futile. In their opinion, in a system of election, a person who is competent and has performed his work honestly, was bound to be re-elected. Further, a system of rotation may mean that each nyaya panch would at least have a minimum period of six years in office which to them seemed a bit too long. They were, however, prepared to suggest an increase in the term of office of nyaya panchas to five years, if need be. In fact, in Uttar Pradesh the term of office is already five years and may be extended by one more year. We think that these observations are not sufficient to outweigh the many advantages in the staggering system. The staggering system ensures a continuity of trained panchas, at the same time leaving the door open for fresh blood coming in. It would also ensure a certain amount of consistency in the administration of justice. It would be convenient from the administrative point of view in arranging training programmes. In addition, a sufficiently long period of office would enable the panchas to give of their best.

## CHAPTER VI

### SPECIAL PROVISIONS FOR WOMEN AND SCHEDULED CASTES AND SCHEDULED TRIBES

1. A question which has been raised in connection with the constitution of nyaya panchayats is that relating to the necessity or otherwise of making separate provisions for securing the due representation of certain weaker or backward sections of the community.

Special provisions for weaker and backward sections.

2.1. All the witnesses are agreed that the presence of women on nyaya panchayats would considerably enhance the value of the institution and that the soothing feminine touch would help to bear upon the settlement of disputes the much-needed sobering influence.<sup>1</sup> There are many cases coming before nyaya panchayats which concern women and children and they would be inclined to speak more freely if the nyaya panchayat included a woman. In some places we have noticed a reluctance on the part of women to appear before nyaya panchayats and this would disappear if women were to be found therein. Women constitute half the population of India and, apart from any other ground, they should also have their due share in the ad-

Need for making special provision for women.

<sup>1</sup>We have adverted earlier to the popularity and success of women justices in England. The Attorney-General of India in his evidence has also referred to the significant role played by women in the people's courts in the Soviet Union. In our own country women have distinguished themselves in the sphere of honorary magistracy. See Coelho, *Whither India*, 1946, p. 64.

ministration of justice at the village level. In our opinion a woman panch would be a valuable addition to the nyaya panchayat.

2.2. In our tours, we met a good number of women panchas particularly in Punjab, and in many places they were taking a keen interest in the affairs of nyaya panchayats although to some extent they seem to be overawed by the presence of so many men. In our country the Constitution guarantees to women the same rights as men in the matter of franchise and equality of opportunity for employment or for the holding of any public office, and laws of Parliament have already brought about a similar equality in many matters affecting family life, and one may wonder whether in the circumstances any further provision is necessary. In spite of the equality of sexes guaranteed by our fundamental and other laws it is not incorrect to say that women are still generally more backward than men and this is more pronounced in the rural areas. By nature they are a little shy and do not readily come forward to contest elections. It is still a man's world and it would not ordinarily be easy for a woman to find a place in a nyaya panchayat unless some special provision is made for her. The nature of the special provision to be made now requires consideration.

Suggestion  
that all  
nyaya pan-  
chas should  
be women.

3.1. In this context it would be appropriate to refer to an interesting but somewhat revolutionary suggestion made by the Chief Minister of Orissa, Shri B. Patnaik. The Chief Minister was convinced that unless something is done to enable women, who constitute half the population of the country, to shake off their "bondage" and "docility" it may not be possible to achieve any degree of success in any reconstruction programme which the country might undertake. For this purpose he felt that it would be necessary to find out some sphere of activity which could be entrusted to women exclusively and in which they are likely to excel. In his opinion, women have an innate sense of justice and are ideally suited for composing differences and bringing about amity in village life. Accordingly he suggested that:—

- (1) Women alone should be entitled to elect members of nyaya panchayats, and
- (2) only women should be elected as members of nyaya panchayats.

3.2. The purpose is laudable and the sincerity with which the suggestion has been put forward cannot be doubted. Assuming, but not conceding, that the proposal is constitutionally feasible, we fail to see how the object he has in mind will be promoted by it. It may only result in fomenting a new type of conflict—conflict between men and women, between husbands and wives, between children

and mothers. If village women are conservative and docile, it is largely due to the fact that the men folk are equally conservative and expect docility from their wives; and a radical scheme of the type suggested by the Chief Minister is therefore bound to be productive of difficulties in its implementation. We may add that in his own State even the co-option of a woman member, where no woman had been elected to the nyaya panchayat, was opposed by men-villagers in a few places like Ganjam.

3.3. Be that as it may, the scheme does not appear to be practicable. In the next Chapter we deal with qualifications for membership of nyaya panchayats and the qualifications have to be fixed very low for the time being for the simple reason that there are not enough persons in the villages with the requisite qualifications to man nyaya panchayats, and the problem is more acute in the case of women. Further, the traditional shyness of women cannot be got over in a day in order to force them to come out in large numbers for being elected as members of nyaya panchayats. In any event, it is hardly appropriate to undertake an experiment of this nature in the formative stages of any democratic institution, much less an institution designed for the administration of justice, assuming that it is both practicable and legally feasible to do so.

4. A further question which may arise in connection with special provisions for women is whether a discrimination in favour of women in respect of what appears to be a political right is constitutionally proper. In a Bombay case<sup>1</sup> a provision for the reservation of seats for women in local bodies was upheld as being constitutional. We need not however examine the constitutional aspect in greater detail as it is not our intention to recommend any such provision for fear that it may only result in separatist tendencies growing. In our opinion, whenever by the normal process of election, whether direct or indirect, women do not find a place in a nyaya panchayat, provision may be made in the law for the co-option by the nyaya panchayat of women possessing the prescribed qualifications to ensure that there are at least two women on every nyaya panchayat. Such a provision, in our opinion, is sufficient to secure the objective in view.

Nature of the provision for women.

5. Members of scheduled castes stand on a somewhat different footing. Notwithstanding the abolition of untouchability by the Constitution and the laws passed from time to time in the States and in the Centre to punish the practice of untouchability in any form, we cannot say that this monstrous custom has completely disappeared from our society. The Constitution recognises that special provisions may be necessary for some time for the protection

Need for special provision for scheduled castes.

<sup>1</sup>*Dattatraya Motiram More v. State of Bombay*, A.I.R. 1953, Bom 311.

of scheduled castes in many spheres of life. A fear has been expressed in some quarters that, without adequate representation, nyaya panchayats are not likely to inspire sufficient confidence amongst members of scheduled castes, particularly in relation to disputes between members of those communities and other communities. We are happy to note that in many nyaya panchayats, all over the country, representatives of scheduled castes have been able to find a place notwithstanding the absence of special provisions for reservation of seats and this is a happy augury for the future. But the fear is there that in disputes between members of scheduled castes and other communities, justice may not always be had. And this fear is shared to some extent by the Union Deputy Minister for Community Development also. There is every need for allaying such fears and in our opinion special provisions may be made and continue to be made in relation to scheduled castes for such time as special provisions for them continue in the Constitution.

Nature of provision for scheduled castes.

6. The need for special provisions would arise in respect of nyaya panchayats within whose jurisdiction some members of the community live. Even here, if representatives of scheduled castes find a place in the nyaya panchayat in the normal process no special provision would be necessary, for in such cases it can reasonably be presumed that the people in general and the scheduled castes in particular have proved themselves to be sufficiently progressive so as not to require any corrective by way of special provisions. It is not necessary to fetter the discretion of the members of each of the gram panchayat in the nyaya panchayat circle in this behalf. It is only in those cases where scheduled castes do not get representation in the normal process that special provisions need be made. In such cases, the nyaya panchayat might be required to co-opt a member of the scheduled castes. We need hardly add that such co-opted member will have all the rights and privileges of a duly elected member.

Whether quality of work would be affected by the special provisions.

7. Any provision for reservation of seats or for special representation is generally unwelcome; and, further, a point may be made that in connection with nyaya panchayats, such provisions are doubly unwelcome. In the case of women, we think we have given adequate reasons for their inclusion, more with a view to strengthening the institution than with finding room for them therein. In the case of scheduled castes, the need for their inclusion arises from the special position in which they are placed. We must not, however, forget that members of scheduled castes are endowed with the same innate commonsense and sense of justice as others. Indeed these communities have to a large extent preserved their caste panchayats through the ages and members of these communities are in a way better equipped for the purpose than the others. Besides,



nothing has been shown against persons belonging to these communities who are now working as nyaya panchas which should render them in any way unsuitable as a class to work as nyaya panchas.

8.1. As in the case of women and scheduled castes, <sup>Scheduled tribes.</sup> scheduled tribes may require special treatment, though the problem here is slightly different. We desire, however, to make it clear at the very outset, that we have had no occasion to make a detailed study of the subject. No doubt, in Assam we met some members of the Khasi tribes and also the members of a tribal panchayat and had interesting discussions with them; but the position with regard to those tribals or that panchayat may not be typical of other tribals or other tribal panchayats in Assam itself, let alone the rest of India. The whole subject appears to be worthy of a separate and careful examination.

8.2. In the present context, we would prefer to confine our observations to areas where tribals may be living side by side with non-tribals. In the administration of tribal areas Government appears to have set before it the objective that the advancement of such areas should proceed without disturbing the essential harmony of the tribal society and their integration with the rest of the country should be secured without anything being done which smacks of an imposition from outside. In areas where the tribal population is predominantly large, separate institutions suited to their genius and way of life may be necessary and this seems to be the approach adopted in the Madhya Pradesh Panchayats Bill which includes in a separate Chapter special provisions for adivasi panchayats. But in those areas where they constitute a minority and are living in the midst of non-tribals, no special provision would appear to be called for because we may assume that they have become sufficiently integrated with the rest of the population. Were it not so, the nyaya panchayat law would not be made applicable to them at all. Further, unlike members of scheduled castes, scheduled tribes are not, generally speaking, the victims of any social prejudices and the approach we have suggested in relation to mixed population would perhaps be more conducive to their integration with the community in which they live. As observed earlier, we should not be taken to speak with any sense of finality on the subject of scheduled tribes as this will be possible only after a special study.

## CHAPTER VII

### QUALIFICATIONS

1. Having dealt with the method of constituting nyaya <sup>Introduc-</sup> panchayats we now proceed to discuss the question whether any and, if so, what qualifications should be prescribed for nyaya panchas. <sup>tion.</sup>

**Educational  
qualifica-  
tions.**

2.1. First, we may consider qualifications based on education. On this subject, there have been ever so many suggestions ranging from one extreme to the other. Some honestly believe that for the proper discharge of the functions entrusted to them and for understanding the nature of their work it is but necessary that the persons who are called upon to shoulder the responsibility should possess adequate qualifications. No doubt, the cases that nyaya panchayats have to deal with are petty and the procedure they are required to follow in the disposal of such cases extremely simple. Even then, it is pointed out that the nyaya panchas should be able to understand the nature of the work entrusted to them. They must know or be capable of being trained to act judicially. In the performance of their duties they must be sufficiently instructed without having to make constant references to the panchayat secretary. They must know the procedure to be followed. Although the technical rules contained in the Evidence Act do not apply to them, they must be in a position to understand and weigh the evidence put before them. For all these reasons, it is necessary that they must possess some educational qualification. On the other hand, if they are illiterate, the panchayat secretary may intervene every now and then and assume a most undesirable role.

2.2. Other persons are of the view that having regard to the simplicity of the matters that generally come within their cognizance, matters which are within the every day knowledge of the villagers, no special qualifications need be prescribed. In their opinion, villagers imbued with a sense of honesty and integrity and endowed with robust common sense would be able without any difficulty to weigh the facts placed before them and arrive at equitable and fair decisions, there being no subtle or intricate points of law involved in such matters. The importance attached to the system of dispensation of justice by nyaya panchayats in the villages lies in the availability of the local knowledge which could be brought to bear upon the facts of each case so that truth could be discerned without any difficulty. In their view it is somewhat presumptuous to suppose that illiterate persons would not be in a position to perceive what is just and true. In our own tours we have come across nyaya panchayats presided over by persons with no educational attainments but who have been chosen as sarpanchas, in the words of the villagers themselves, for their experience in life, honesty, integrity and impartiality; and were any educational qualifications to be prescribed such persons would be completely ruled out. Even assuming some qualification to be necessary, it would be difficult to apply any yardstick by which to measure the competence of the persons if one were to prescribe qualifications such as primary pass, middle pass, matriculation, etc. Persons with such qualifications need not necessarily be in a better position to appreciate and understand the

nature of the cases that come before nyaya panchayats. Rather, greater harm may result if persons with half-baked knowledge assuming an air of learning try to experiment the result of their half-baked knowledge on the poor litigant public. The views of these persons could well be expressed in the language of Shri Brahmananda Reddy, Minister for Law, Andhra Pradesh, who, speaking about the qualifications that a panch should have, said "All that is needed of these panchas is that they should possess a round head on square shoulders". Provided it is there, any other deficiencies could be supplemented by the training given to them.

2.3. The persons who advocate some educational qualification further argue that it would mean taking too great a risk if judicial powers are to be entrusted to persons who do not even know how to read and write the regional language. In the opinion of some of the Judges of the Allahabad High Court, justice cannot be dispensed by persons who only know how to sign. Persons of this persuasion seem to think, and perhaps quite rightly, that though by and large the matters that are assigned to the nyaya panchayats are trivial and petty, they do involve matters of some nicety relating to procedure, appreciation of evidence, principles of natural justice and the like which do require some educational qualification to understand the niceties involved. Any training given would not cure the initial and fundamental deficiencies, for even the training given in order to serve its purpose and utility must be given to persons who are likely to benefit thereby. That apart, the protagonists of this view point out that prescription of some educational qualification would immediately act as a welcome spur for a literacy drive in the villages.

2.4. But it has to be pointed out that conditions in India are not the same in every part of the country. Educational attainments vary considerably from place to place. While it may be possible to secure even law graduates to man these courts in some parts of Kerala, it would be nothing short of a miracle if one could procure even persons with elementary qualifications for this purpose in some of the backward areas of Bihar. There are also other factors to be considered. Is it really necessary that nyaya panchayats should be manned by persons with any high qualifications which incidentally may only serve to impede the smooth working of these institutions? In this connection the tendency of villagers even with some small qualification to migrate to urban areas should not be lost sight of. Are not experience and worldly wisdom of greater importance than any academic qualification in this context? Having regard to these considerations it is suggested in some quarters that not all need have the prescribed qualification; it would be sufficient if a percentage of the panchas or at least the sarpanch is duly qualified.

2.5. On the whole, we think that the best course to adopt would be to provide that a person to be eligible to serve as a nyaya panch should be able to read and write the regional language fairly fluently. This should be regarded as a bare minimum except in very backward areas for which special provisions may be made. In the absence of this bare minimum, the panchas would not be able even to go through the manual that may be supplied to them or be in a position to record the gist of evidence or the decision which has to be given. Nor can they intelligently follow any instructions or lectures given to them during the training period. It is, however, not necessary to prescribe different qualifications for nyaya panchas and nyaya sarpanchas and in the system of indirect elections which we have recommended the gram panchayats would have no difficulty in choosing properly qualified persons. In fact, the point made by many of the villagers has been that they know whom to choose in the context of administration of justice and it is really not necessary to fetter their discretion by prescribing any qualifications whatsoever. However, we think it highly desirable to prescribe a minimum qualification on the lines we have indicated which may be raised when the effect of the present schemes of compulsory primary education is more widely felt.

**Other qualifications.**

3. Apart from educational qualifications the witnesses were asked about the desirability or otherwise of fixing any other qualifications based on age, property, etc.

**Property.**

4. Though in some cases some of the witnesses did suggest and also seem to welcome the suggestion of fixing a property qualification on the ground that such a qualification indicated that the man concerned had a stake in the village, the over-all opinion was against it as in their view it would cut at the very root of the democratic basis underlying this institution and would sound anachronistic in an age of social equality. Qualifications based on property would only seek to create a separate class with vested interests, and we agree that it is neither necessary nor desirable to prescribe any property qualification.<sup>1</sup>

**Age.**

5. As for age, there is general agreement with the view that while the nature of the work of gram panchayats requires the services of able and energetic young persons, judicial work could, with profit, be entrusted to comparatively elderly people who may possess a mature outlook and rich experience. Judicial duties call for a cool and dispassionate approach to the problems, and, generally, elderly persons can be expected to bring to bear upon the issues a balanced outlook which is so very conducive for the dispensation of justice. While the suggestions about the minimum age were varied, we are inclined to think that the object could be achieved by prescribing a minimum of

<sup>1</sup>See *ante*, Chapter III, paragraph 5.1., as to abolition of property qualifications in the case of justices of the peace in England.

30 years. For obvious reasons it is not necessary to prescribe a maximum age.

6. Many of the Panchayat Acts now in force also contain provisions relating to disqualifications based on insolvency, physical or mental incapacity, convictions involving moral turpitude and the like. It is, however, unnecessary to deal with this aspect of the matter in any detail. Suffice it to say that such provisions are extremely desirable and are on the right lines.

Disqualifications.

## CHAPTER VIII

### TRAINING

1. There can be no doubt that to ensure the successful functioning of nyaya panchayats it is essential that the panchas should be properly trained. However much we may simplify the procedural law and the substantive law, administration of justice has to conform to certain minimum standards and principles. However much we may circumscribe the jurisdiction of a lay judge, it is unfair to expect him to administer justice simply in the 'light of nature'. It was this 'light of nature' which earned for even the highly enlightened and learned early English chancellors the cynical gibe that the standards varied with each chancellor even as his foot. In England where the qualifications and attainments of even an average lay justice are fairly higher than those of the best we can expect from any of our nyaya panchas, the need for training has been felt and of late it has been made virtually compulsory. In an earlier Chapter we have adverted to the benefits obtained from training programmes for lay justices in the United States.<sup>1</sup> The importance of training programmes for nyaya panchas in our country needs no elaboration if we recall how we found it practically impossible to recommend a higher minimum qualification than ability to read and write the regional language fluently for being chosen as a nyaya panch.

Need for training.

2. All the witnesses, excepting a few in Kerala, have laid considerable emphasis on the question of the training of nyaya panchas. It is significant that the nyaya panchas themselves have been the loudest in urging the necessity for training. Typical of their approach to the problem is the following observation of a lady sarpanch of Bihar, herself a graduate in arts:

Views of witnesses regarding necessity for training.

"I have had no training except practical experience.  
I have asked for training. Training should be

<sup>1</sup>See *ante*, Chapter III, paragraph 13.

both theoretical and practical—theoretical for about a month and practical for about 15 days. We should be shown the courts functioning.”.

Those of Kerala who felt training unnecessary seem to have spoken primarily having in mind a system of government in which nyaya panchas are appointed by Government and the availability of adequately qualified persons in that State. The Kerala Minister for Law and Revenue emphatically declared that in his State at least there was no necessity for training at all. It is only fair to add that the Minister seemed to us to have been of opinion that training would not be necessary even if no minimum qualifications were prescribed. In our opinion this is rather an extreme view. We can appreciate the need for formulating training programmes with reference to the attainments of the persons to be trained, but we are unable to subscribe to the view that no training is necessary. Surely the Kerala village court judges do not stand on a higher footing than the English justices of the peace!

Present position.

3. Paradoxically enough, in spite of the overwhelming body of opinion in favour of imparting training to nyaya panchas, in most of the States very little seems to have been done in this direction. A number of States have programmes for training members of executive panchayats and it is strange that no such programmes have been initiated for nyaya panchas whose need in this matter is perhaps greater. Perhaps the nyaya panchayat has not that glamour and attraction in the public eye as the executive panchayat! In the majority of States, including even States like Madras, West Bengal, Maharashtra and Gujarat, where village courts have been functioning for quite a number of years, practically no provision seems to have been made for training. In a few States, e.g., Gujarat, Punjab and Andhra Pradesh, efforts are afoot to initiate some training programmes. In Gujarat we were told that a simple manual for the guidance of panchas was being published and that the Government was planning to embark upon an ambitious programme for training nearly fifteen thousand nyaya panchas. In only two States—Uttar Pradesh and Bihar—we found some efforts being made for training nyaya panchas. The training centres which have been established in these States do not, however, cater to the needs of the judicial panch, but some amount of training is given to them by mobile teams, particularly in Bihar. It should, however, be noticed that in both these States, whatever little training is given is confined to sarpanchas and no attempt is made to ascertain whether the training has had any effect. In our opinion, it is necessary that the training should be systematised and should be extended to all the nyaya panchas.

Difficulties in organising training programmes.

4. In commenting upon the present state of affairs we are not unmindful of the difficulties involved in arranging training programmes. The number of persons to be train-

ed would run into a few lakhs if we take the whole country into account. Most of the persons to be trained would be bare literates. Many would be unable to leave their villages or their normal avocations for any length of time. In a system of elected judiciary, there is no guarantee that the persons trained would again be elected. Incidentally, the system of rotation which we are recommending elsewhere is to provide against this contingency to some extent. Then there is the problem of availability of suitable persons to impart training. Above all, the training programme should be within the limits of expenditure which the Government might be able to incur. These difficulties explain, but do not justify, the present general apathy towards properly training nyaya panchas. In our opinion, if well planned efforts are made it would not be impossible to overcome these difficulties and devise training programmes which will serve the purpose.

5. It would be necessary before formulating any training programme to bear in mind the objects and the scope of training. The foremost objective, in our opinion, should be to impress upon the panchas what 'acting judicially' means and explain to them how to 'act judicially'. Failure to act judicially is much more serious than committing a mistake in law. Sitting in judgment upon fellow villagers is an onerous responsibility and the reputation and indeed all that the parties hold dear in life may depend upon the decision that is made. The panchas have to observe great caution and a certain degree of humility in discharging their functions. At the same time they must be fearless. They must bear in mind that all are equal before the law and that the law is no respecter of persons. They must conform to the principles of natural justice<sup>1</sup> and must not only avoid bias, ill-will or affection but must appear to

Object and  
scope of  
training.

<sup>1</sup>A study group of the National Academy of Administration, Mussoorie has collected a number of well-known rules based upon the principles of natural justice, and these are reproduced here:—

- “(i) Never condemn a person unless he is heard.
- (ii) A case should not be pre-judged.
- (iii) Justice should not only be done but it should be shown to be done.
- (iv) No proceedings should be taken without notice to the person concerned.
- (v) Each party should be given a fair opportunity to lead evidence.
- (vi) If there is a reasonable doubt, the accused should get the benefit.
- (vii) Right of cross-examination should not be denied to any party.
- (viii) It is improper to base findings on information gathered without notice to and at the back of parties.
- (ix) After spot inspection, a note should be prepared and shown to the parties who should be given opportunity to point out mistakes in the note.
- (x) Justice delayed is justice denied.
- (xi) Decisions should be objective and not subjective.”.

Journal of the National Academy of Administration (Mussoorie), Vol. VI. No. 2 (April, 1961), pp. 146-147.

have so avoided them. As Lord Hewart said: "It is not merely of some importance but it is of fundamental importance that justice must not only be done but should manifestly and undoubtedly be seen to have been done." The second objective, as important as the first, should be to explain to the panchas their duties to the State and society and to the parties. Justice should be administered in such a way that respect for the law is maintained. At the same time justice should, where possible and proper, be tempered by considerations of amity in village life, in the sense that endeavours should be made to reconcile the parties and eradicate the causes of the dispute and thus pave the way for better relationships. This should not be construed to indicate that greater consideration should be shown to the offender than the injured person. The third objective is to explain to the panchas the provisions of law which they have to apply and the procedure which they have to follow in deciding cases. The fourth objective should be to explain to the panchas how important it is to maintain records, what records should, in fact, be maintained and in what manner. The panchas may be told the place which they occupy in the judicial hierarchy of the country, their relationship with the other members of that body, their relationship with fellow panchas and their clerk. Incidentally they may also be told their relationship with other governmental agencies such as the police, the other panchayat-i-raj institutions and other bodies.

6. It would be idle to suggest that the simpler course may be to train the panchayat secretaries instead of the nyaya panchas. If the panchas are ignorant, the secretary would either have to sit quiet when serious mistakes are being committed or intervene and take an active part in the proceedings, both of which would be calamitous.

7. The objectives we have mentioned above should in our opinion constitute the basis for any training programme for nyaya panchas. We are aware that it is not ordinarily possible to conduct a course accomplishing all these objectives within the time of a fortnight which is the maximum that nyaya panchas can be expected to spare.<sup>1</sup> Even if it is possible to cover all these aspects in an intensive course, very little can be said as to how much the average trainee would assimilate. Nor can we predict with certainty the quality of all the trainers. The solution to the problem is to prepare a manual for the guidance of nyaya panchas covering all the aspects in a simple, lucid and narrative style so that it is capable of being comprehended without much extraneous assistance. The bare translations of the Acts which the nyaya panchayats have to administer and

Need for  
manual.

<sup>1</sup>Wherever we went we tried to ascertain how much time the panchas would be able to spare for a training course. Except in Madhya Pradesh where one or two panchas were against any period exceeding four or five days, all expressed the view that a period of 10 to 15 days would be feasible. Some indicated willingness for periods longer than a fortnight.



the procedure they have to follow, to be found in almost all the States, which are often abstract and uninteresting, are no substitutes for the manual we envisage. The manual should be illuminating and should abound in homely illustrations and not easily forgettable anecdotes so that merely by reading it a few times or hearing it a few times a nyaya panch will be able to get an insight into his work. We envisage the manual to serve as an introduction to the trainee, as a text book and as a refresher, and also as an outline to the trainer. Experts may be commissioned to prepare the manual and it may then be subjected to thorough scrutiny by all interested before it is finalised. It may be revised from time to time in the light of experience. No doubt the task of preparing such a manual would be arduous, but once it is done, it would mean a great step in the direction of stabilising and standardising the system of nyaya panchayats. The expenditure and the labour involved is worth it. Since all the States are to benefit by it they can share the expenditure. The initiative in this behalf may well be taken by the Central Government. Besides, the manual, if properly prepared and published on a mass scale, may very well be of general interest and may prove to be a commercial proposition as well. In any case, the country ought not to stint any expenditure on a project which is essential for the successful functioning of nyaya panchayats.

8.1. Once the manual is prepared, the task of training will be very much simplified. The period of training may without disadvantage be restricted to a period of ten to fifteen days. Lectures may be arranged and discussions encouraged during the period of training with a view to explaining to the trainees the more important or difficult parts of the manual and to enable the trainees to use the manual by themselves. Moot courts might be arranged and mock trials conducted highlighting the basic principles to be observed in the administration of justice, the procedure to be followed and the substantive law to be applied. Training courses.

8.2. The training courses might be conducted at specified centres like the block or the district headquarters or alternatively by peripatetic teams of trainers moving from village to village. The details will have to be worked out by the State Governments taking into account local circumstances. Panchas should not, however, be required to pass any examination before assuming office.

8.3. We have considered seriously the question as to who should conduct the training courses. In view of the manual, it may be argued that this question is not of great importance. We feel that a considerable amount of the success of the training course depends upon the quality, enthusiasm and zeal of the trainers. We are suggesting elsewhere the appointment of a special officer for supervising the work of panchas and affording them guidance.

wherever necessary. These special officers, wherever they are appointed, should prove the best medium for training the panchas initially. If the judicial officers of the State can be spared for some time they can very well be utilised for the purpose. Likewise some suitable lawyers may be persuaded to work either in an honorary capacity or on payment of suitable honoraria. However, where lawyers or judicial officers are entrusted with the task, care should be taken to avoid any tendency which may give the panchas an impression that their courts are like the regular courts. Another source of recruitment for this purpose, in our opinion, would be teachers in law colleges. It may not be difficult to persuade them to undertake the work during their vacations. They would be familiar with teaching methods. They would be free from the technical approach of a practitioner or a judicial officer. Although they may incline to be a little pedagogic, they would normally possess the potential required for promoting the system of panchayati justice on the right lines.

9.1. We are of opinion that it is rather naive to think that a manual and a short training course would suffice adequately to equip the nyaya panchas. We are convinced that we should place no more reliance on these than as powerful, may be very powerful, stimuli to other forms of further training. In short, there is great necessity for follow-up training programmes. These may take various forms. For example, periodical refresher courses, seminars, conferences or sammelans may be arranged. Refresher courses would facilitate further assimilation whilst seminars and conferences would prove to be "an extremely useful medium of instruction based on exchange of experience and wisdom".<sup>1</sup> It would be excellent if the judicial authorities vested with powers of revision over the decisions of nyaya panchayats are enabled to take part in these conferences because they are the best persons to explain to the panchas the mistakes that they commonly commit, the pitfalls they should avoid and generally the procedure that they should follow in order that justice is done. Likewise, visits of nyaya panchas to neighbouring panchayats might be encouraged for exchange of ideas. Suitable incentives could be thought of to make such seminars and conferences a success. In this connection, it has been suggested that visits of nyaya panchas to the regular courts in session might also prove fruitful. An intelligent villager's comment on this was that such visits may only result in nyaya panchayats getting bogged down in procedural difficulties and becoming more confused than ever, particularly as all the procedural laws which apply with full force in courts do not apply to nyaya panchayats. There is a good deal of force in this observation, but even then we do not suggest

<sup>1</sup>See G.S. Chooramani: Nyaya Panchayats and Panchayati Adalats in Uttar Pradesh, p. 13.

that occasional visits to courts intelligently arranged are not likely to produce beneficial results.

9.2. A fruitful medium for follow-up programmes would be the radio. Village programmes relayed by different stations of All India Radio are said to be successful. Weekly or bi-weekly programmes may be arranged in relation to nyaya panchayats. Lectures, discussions, etc., may be relayed. Occasionally, as suggested to us by some witnesses in Jammu and Kashmir, plays dealing with nyaya panchayats can be broadcast. The programmes will have to be planned by experts on an all-India basis and care will have to be taken to see that there is proper co-ordination between the radio programmes and the other programmes connected with training. Provision may also be made for questions and answers to resolve doubts of particular nyaya panchas. We may add that the radio programmes will not only benefit the panchas but also give some insight to the general public into the working of nyaya panchayats. Incidentally they may serve as a sort of preliminary training to persons who might in future be elected as nyaya panchas.

10. The manual and the training courses can be supplemented by the publication of periodical literature relating to nyaya panchayats. Such literature may consist *inter alia* of articles by experts, reports of decisions of higher courts on revision petitions with explanatory notes and reports of important decisions of the nyaya panchayats themselves. Nyaya panchas may be encouraged to contribute articles or raise problems for solution. The periodical may also serve as a forum for nyaya panchas to give expression to their views on matters relating to nyaya panchayats. In Uttar Pradesh, we were shown copies of a journal somewhat on these lines, brought out by a private agency, but it is said to be lacking in official support. In our opinion, the publication should be undertaken by government.

Panchayat  
journal  
and other  
literature.

11. A small library should be provided at public expense for the use of every nyaya panchayat. The books required for use by nyaya panchayats would not be law books as the expression is commonly understood, but simple works on general principles of procedure and treatment, books on the lines indicated earlier in this Chapter. It should be kept up-to-date by suitable additions from time to time. The Law Department of each State should be in a position to advise as to the books to be kept in these libraries.

Library.

12. We are of the view that a training programme, such as the one outlined above, centering around a comprehensive but easy to understand manual, and consisting of an initial training course followed up by periodical refresher courses and supplemented by radio programmes and periodical literature, will in course of time produce the desired result. For getting the best results all efforts in this direction should be made on an all-India basis.

Conclusion.

## CHAPTER IX

## JURISDICTION

General.

1. In days long gone by, the gram panchayats decided both civil and criminal cases and their powers were not subjected to any pecuniary or other limits. In the complex life of today, however, we can conceive of similar institutions only for the purpose of disposing of small or petty matters for which a quick and simple machinery has to be devised in the interests of the corporate life of the village. And we now proceed to discuss the extent to which judicial powers may, for the time being, be conferred on nyaya panchayats.<sup>1</sup>

*A. Civil jurisdiction*

Suits uniformly recognised as within the competence of nyaya panchayats.

2. The civil suits which may ordinarily be entertained by nyaya panchayats, as provided in almost all the Acts now in force, are—

(1) suits for money due on contract, other than contracts in respect of immovable property;

(2) suits for the recovery of movable property or the value of such property;

(3) suits for compensation for wrongfully taking or injuring movable property;

(4) suits for compensation for damage to property caused by cattle trespass.

The above list proceeds on the assumption that such suits would be simple in character the truth or falsehood of which it is easy to ascertain, that the matters involved in such suits are likely to be of common occurrence in the village, that the decisions would be based on a simple determination of facts and that they would not normally give rise to complicated questions of law. The fact that all the Acts are agreed on the above list shows that it has so far worked well and in the light of the discussions which follow as to the pecuniary value of such suits we see no scope for an expansion of this list for the time being.

Other suits within the competency of nyaya panchayats in certain States.

3. In addition to the suits mentioned above, a few States have conferred on nyaya panchayats jurisdiction in relation to certain other types of suits. They are:—

(a) suits for the recovery of rent. Under the Assam Panchayat Act, 1959, and the Bihar Panchayat Raj Act, 1947, suits may be entertained by nyaya

<sup>1</sup> In doing so, we have duly taken into account all the written representations placed before us, including the demands of the Uttar Pradesh Panch Sammelan, 1959, for an enhancement of the civil and criminal powers vested in nyaya panchayats.

panchayats regardless of their value if the parties agree thereto; otherwise there is a pecuniary limit which extends upto Rs. 500 in the case of certain panchayats in Bihar.

(b) suits for the payment of a tax or other sum due to a local authority (the Madras Village Panchayats Act, 1950); suits for the refund of any such tax or other sum (the Andhra Pradesh Village Panchayats Bill, 1959). The pecuniary limit is Rs. 100 which may be raised to Rs. 200 with the consent of the parties.

(c) suits for the recovery of wages, including minimum wages, by workers. The Kerala Village Courts Act, 1960, which contains such a provision limits the pecuniary value to Rs. 200 and which, by consent of the parties, can be increased to Rs. 300.

(d) suits for arrears of maintenance. The Kerala Village Courts Act, 1960, contains such a provision with limitations similar to those in item (c) as respects their pecuniary value.

(e) suits for ascertained sums not exceeding Rs. 250. (The Rajasthan Panchayat Act, 1953.)

(f) suits for damages not exceeding Rs. 250 for breach of contract not affecting immovable property. (The Rajasthan Panchayat Act, 1953.)

(g) suits of a specified description triable by revenue courts under the Punjab Tenancy Act, 1887. The Punjab Gram Panchayat Act, 1952, and the Himachal Pradesh Panchayat Raj Act, 1952, vest certain powers of trial in nyaya panchayats in respect of certain classes of suits triable by revenue courts. The pecuniary limit is ordinarily Rs. 100 which in the case of Himachal Pradesh is capable of enhancement up to Rs. 500.

In our opinion, these suits should not be made cognizable by nyaya panchayats. Nyaya panchayats on the civil side are in the main intended for the disposal of simple money and other suits and the list referred to in paragraph 2 is fairly exhaustive thereof. Beyond this it is neither necessary nor desirable to go. Suits for the recovery of rent relate to immovable property, and advisedly suits relating to immovable property are for the time being kept outside the jurisdiction of nyaya panchayats. In this connection it may be noted that such suits, if they do not relate to house rent, are ordinarily outside the purview of even the regular courts of small causes and in the villages such suits would more often than not relate to rent of land. In one or two Acts suits for rent are subject to the modification that the contract must be in writing and signed by the defendant. Even with this exception, we

do not think that rent suits should be cognizable by nyaya panchayats for the time being. Suits for the recovery of wages, including minimum wages, to the extent to which they are not covered by the expression "suits for money due on contracts" appear to involve the consideration of some special labour or other laws, and, therefore, should be outside the purview of nyaya panchayats. To use the expression "suits for ascertained sums" in place of the usual expression "suits for money due on contract" may only serve to cause confusion. Suits for damages for breach of contract should obviously not be triable by nyaya panchayats as the issues involved would often be complicated. We would also not recommend suits for maintenance or for arrears of maintenance being triable by nyaya panchayats as they may give rise to several subsidiary issues; more so when such suits are not triable even by the regular court of small causes; nor do we think that a nyaya panchayat would be able to try a suit by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts, and this is one of the categories of suits triable by nyaya panchayats in Punjab. We, however, see no objection to suits for the payment or refund of a tax or other sum due to or from any local authority, preferably a panchayat authority, which may be specified by the State Government in this behalf.

Suits  
relating to  
common  
lands.

4. In the course of our tours it was suggested that nyaya panchayats should be given power to try disputes relating to common lands or lands belonging to the village and now vested in panchayats. Similarly, it was pointed out, that in the absence of a power to issue injunctions, nyaya panchayats are powerless to prevent encroachment on gram panchayat lands. At present, nyaya panchayats have power to punish persons guilty of encroachment on public land but it is said that this power is hardly sufficient to act as a deterrent. We do not think that the conferment of any such power as suggested is desirable at the present moment. Notwithstanding the fact that nyaya panchayats have been functioning in some of the States for some time, we feel that they are in their experimental stage all over the country and any enlargement of their civil jurisdiction will necessarily have to wait until they have gained sufficient experience in the working of their Acts and the climate is propitious for the conferment of some small jurisdiction in respect of immovable property.

Pecuniary  
limit of  
civil  
jurisdiction.

5. The upper limit for the pecuniary jurisdiction of nyaya panchayats in relation to suits mentioned in paragraph 2 varies from State to State. It is as low as Rs. 25 in Orissa, but the Act makes provision for increasing the limit of pecuniary jurisdiction. In Bihar, Rajasthan and Uttar Pradesh the maximum is as high as Rs. 500. The Acts also generally provide for a higher pecuniary jurisdiction if the parties agree to abide by the decision of the nyaya panchayat. In some States there is no pecuniary

limit at all if the parties agree to have the matter decided by the nyaya panchayat. In fact, the Bihar Panchayat Raj Act, 1947, goes so far as to provide that by a written agreement parties may confer jurisdiction on nyaya panchayats to hear and determine any suit irrespective of its nature and value. In Himachal Pradesh somewhat similar provisions exist for the disposal of civil and revenue suits. On the other hand, in West Bengal, the West Bengal Panchayat Act, 1956, under which nyaya panchayats are yet to be constituted, seeks to reduce the pecuniary limit from Rs. 200, which was the pecuniary limit of the corresponding union courts, to Rs. 100, the reason for such reduction being that the jurisdiction of the nyaya panchayats is now to be exclusive while the jurisdiction of the union courts was concurrent.

6.1. We have already observed that nyaya panchayats are still in their experimental stage in almost all the States, and we think that in the conferment of jurisdiction one must necessarily go slow. In addition, there is no organised training of nyaya panchas and nothing much has been done by way of adequate supervision. It is also not possible to prescribe any high qualifications for panchas. In the circumstances, we do not think it wise to confer any jurisdiction additional to that mentioned in paragraph 2. And even with regard to these, certain limitations would be necessary. It is not correct to vest in nyaya panchayats unlimited jurisdiction in respect of any matter solely on the ground that the parties have agreed thereto. It will be noticed that nyaya panchayats are required to *decide* such matters, and questions of fact and law which may arise in such cases may be many and complicated. It is not merely an award that nyaya panchayats are expected to make but a decision which they are expected to give. To vest such unlimited jurisdiction or even a large jurisdiction would be to give nyaya panchayats a character which they do not and are not intended to possess.

Suits which may be tried by nyaya panchayats and their pecuniary limits.

6.2. In our opinion, the pecuniary limit in relation to the suits mentioned in paragraph 2, which alone should be cognizable by nyaya panchayats for the time being, should be fixed at Rs. 250. It is futile to restrict the pecuniary jurisdiction to such small amounts as Rs. 25, Rs. 50 or even Rs. 100. We have, however, no objection to a provision that by consent of parties suits of the description aforesaid, which do not exceed Rs. 500 in value, may also be triable by nyaya panchayats. It has been pointed out to us that such cases are bound to be rare as parties can seldom be expected to reach any such agreement, but there is no harm in including such a provision. Power may also be taken to enhance the pecuniary jurisdiction from Rs. 250 and Rs. 500 to Rs. 500 and Rs. 1,000 respectively.

**Exceptions.**

7. Arising out of the jurisdiction sought to be vested in nyaya panchayats, it becomes necessary to except certain types of suits from their cognizance and provision is to be found in most of the Acts for such exceptions. The exceptions generally are:—

(1) suits on a balance of partnership account (with the qualification in some cases that they are not to be excepted if a balance has been struck by the parties or their agents).

(2) suits by or against the Government or a servant of the Government in his official capacity. The latter exception has been objected to by certain panchayats, particularly in cases where the expression used is "public servant" and not "servant of the Government". But, in the interest of efficient administration, this exception appears to be desirable.

(3) suits by or against persons of unsound mind or minors.

(4) suits by a mortgagee of immovable property for the enforcement of the mortgage or for foreclosure or sale of property or otherwise or by a mortgagor for redemption.

(5) suits against a gram panchayat, a sarpanch or a panch.

(6) suits cognizable by revenue courts.

(7) suits for a share under an intestacy or for a legacy under a will.

We think these exceptions are well designed and we have no special comments to offer.

**Civil  
jurisdiction  
to be  
exclusive.**

8. The jurisdiction of nyaya panchayats in relation to suits within their cognizance is made exclusive in most of the State Acts and we think it should be so. Otherwise, there is no point in establishing nyaya panchayats at all. If the jurisdiction were concurrent, as the Law Commission has pointed out<sup>1</sup> "If the plaintiff takes advantage of the village court with its cheap and expeditious procedure, the defendant will, in order to obstruct the plaintiff and delay the litigation, move for a transfer of his case to the regular court. If our purpose is to make these courts efficient, we can do so only by investing them with complete responsibility in the exercise of such jurisdiction as they possess and give them opportunities to acquire knowledge and experience. It is unfair to criticise these courts as inefficient and at the same time deny them exclusive jurisdiction which step alone can lead to their improvement and satisfactory working".

<sup>1</sup>Paragraph 37 of Chapter 43 of the Fourteenth Report of the Law Commission.



### *B. Matrimonial jurisdiction*

9.1. A sizeable body of opinion was placed before us, particularly in the villages that nyaya panchayats should be vested with jurisdiction to try matrimonial causes. Having regard to the intimate nature of village life it was said that matters relating to maintenance, divorce, judicial separation and the like could be disposed of more expeditiously and with greater advantage by nyaya panchayats than by the regular courts and there would be a definite benefit to the villagers in conferring such jurisdiction on nyaya panchayats. The Attorney-General of India is also of opinion that simple matrimonial suits which are to be disposed of according to customary law may be made triable by nyaya panchayats. We are, however, somewhat reluctant to recommend the conferment of any such powers at the present moment. The common form of matrimonial causes in the village would presumably be causes based on desertion, adultery, etc., and questions relating thereto or issues arising therefrom may not always be simple. Again, if the proceedings are based on cruelty, it would not be reasonable to expect nyaya panchayats to be familiar with its meaning. Further, in respect of all these proceedings an adequate knowledge of the personal law applicable to the parties would also be necessary. An alternative suggestion has, therefore, been made in some quarters that only those matrimonial causes where the issues are simple and are to be decided on facts alone may be entrusted to nyaya panchayats; but it may not be possible or desirable to divide matrimonial causes into two such categories, simple and otherwise, as the acceptance of the suggestion would mean.

9.2. We think that the only jurisdiction which may be considered in the present context is jurisdiction under section 488 of the Code of Criminal Procedure, 1898. It has been stated that nyaya panchayats would be able to temper justice with mercy, but the amount of maintenance awardable by a nyaya panchayat may be limited to Rs. 25 per month for the time being. On the other hand, the scope of this section is limited in the sense that the criminal court under this section is not supposed to usurp the jurisdiction of the civil court in matrimonial disputes. It is presumably for this reason that the law provides that the power under this section can only be exercised by a district magistrate, a presidency magistrate, a sub-divisional magistrate or a magistrate of the first class. Further, the maximum monthly amount of maintenance which may be awarded under this section is as high as Rs. 500. In these circumstances, it appears to us that, rather than vest any such jurisdiction in nyaya panchayats, the better course may be to make a provision on the lines contained in the Madhya Pradesh Bill, 1961, that a magistrate making an enquiry under section 488 may require a nyaya panchayat in whose circle the party concerned may be residing to

report to him as to the amount of maintenance which, having regard to the circumstances of the parties, should be made payable. Such a report would be evidence in the case.

9.3. In passing, we may also observe that there is a provision in the Hindu Marriage Act, 1955, which authorises the State Government to notify any civil court as a court having jurisdiction to try any of the matters arising under that Act. A similar provision has been suggested in the Christian Marriage and Matrimonial Causes Bill. But the time for notifying the nyaya panchayat as one of such courts is, in our opinion, yet to come.

### *C. Criminal jurisdiction*

#### **Criminal jurisdiction generally.**

10. The conferment of criminal jurisdiction poses certain problems which require careful consideration. In fact, in Madras, Andhra Pradesh and a few other places, some of the panchas who gave evidence before us did not very much like the idea of any criminal jurisdiction being conferred on them at all. While they did not mind exercising powers in respect of civil suits, they feared that the exercise of any criminal powers might produce unpleasant consequences which, left to themselves, they would very much like to avoid. In this context we find it somewhat difficult to appreciate the concession made by the Madras Home Minister that if nyaya panchayats are to have any judicial powers at all, the exercise of criminal powers may not be so objectionable as the exercise of civil powers. Possibly, in his opinion, criminal cases would be simpler in character than civil cases. There is, however, a general consensus of opinion that in the interests of the village it is necessary that nyaya panchayats should exercise criminal jurisdiction in respect of petty matters where the punishment meted out by them would be an adequate corrective. The villagers, in particular, point out that any decision, whether it be in a civil case or a criminal case, is bound to produce some amount of unpleasantness in one party or the other but no undesirable consequences can possibly follow in the wake of any decision honestly given. We agree with this view and feel that nyaya panchayats to be effective must be clothed with some criminal jurisdiction as well, and we now proceed to examine the extent to which such jurisdiction may for the time being be conferred.

#### **No power to award substantive sentences of imprisonment.**

11. At the outset, it may be stated that public opinion is almost unanimous that nyaya panchayats should not have the power to award sentences of imprisonment substantively, and this is also the view of the Law Commission as contained in its Fourteenth Report. The reason for this is not far to seek. At the present stage of development it

would be extremely unwise to vest any power of imprisonment in nyaya panchayats—a power which may not be used at all due to fear although the occasion demands it, or may be wrongly used or misused. Even where the power has been conferred, as in Bihar, it would appear that it has largely not been exercised at all. We would, however, hasten to add that no case came to our notice in that State of its misuse or wrong use, but there appears to be a lurking fear in the minds of almost all the persons whom we met of its possible misuse, and, in their opinion, it is not advisable to give this power to nyaya panchayats at the present moment. In one State we even found a reluctance on the part of some villagers for an enhancement in the limit of fine although it was as low as Rs. 15. In the circumstances, we think that it would be unwise to invest nyaya panchayats with any powers of imprisonment.

12.1. We have said elsewhere that nyaya panchayats should really not be regarded as one more tier in the hierarchy of courts with all their tiresome technicalities but as a special machinery set up in the village by the villagers themselves primarily for the amicable settlement of all petty matters which, if left to simmer, would tend to disturb the harmony of village life, and only secondarily for their formal adjudication. In the words of the Uttar Pradesh Panchayat Raj Amendment Act Committee (Report, dated 1954, p. 44) nyaya panchayats are not to be regarded as crude and unshapely copies of the courts of law. From this point of view we may now examine the criminal jurisdiction vested in nyaya panchayats under the several State Acts, but before doing so it may be useful to formulate certain general principles for our guidance in such examination. For example—

Principles  
for vesting  
of juris-  
diction.

(1) As nyaya panchayats are not to have any power to award substantive sentences of imprisonment, graver offences punishable with rigorous imprisonment should ordinarily not be within the cognizance of nyaya panchayats. That is to say, the gravity of an offence should not be minimised merely for the purpose of bringing it within the jurisdiction of nyaya panchayats.

(2) Where an exception has to be made in respect of any such offence, the exception will have to be justified on the ground that it is likely to be of common occurrence in the village and that in the circumstances envisaged a fine would really meet the ends of justice.

(3) Where in the trial of an offence expert evidence would be necessary, or, without technical assistance it would be difficult to appreciate the ingredients of the offence, jurisdiction should not be vested in nyaya panchayats although the offence may not be serious in character.

(4) No offence, although not serious, should be triable by nyaya panchayats if it would involve difficult points of law and no jurisdiction which is likely to be misused should be conferred on nyaya panchayats.

(5) Procedural difficulties in securing the attendance of the accused should also be kept in mind in selecting offences.

(6) Broadly speaking, provision need be made in respect of those offences only which are petty in character, and are likely to be of common occurrence in the village, the trial of which by a nyaya panchayat would really be in the best interests of the village. A nyaya panchayat should not be regarded as a substitute for the police or the executive in the maintenance of law and order, although their help may be sought otherwise.

12.2. We are also stating elsewhere that no legal practitioner should be permitted to appear before nyaya panchayats, and the provisions contained in clause (1) of article 22 of the Constitution should not be lost sight of in this context. Under that article no person who is arrested shall be denied the right to be defended by a legal practitioner of his choice. If therefore serious offences of a cognizable character are brought within the purview of nyaya panchayats, there is every possibility of legal practitioners having to be associated with the trial thereof and we should postpone such a contingency for a more suitable occasion, if not avoid it altogether. Criminal jurisdiction cannot also be high because it will be ineffective in the absence of the active co-operation of the police and the extent to which such co-operation is desirable or may legitimately be expected is a matter which is discussed in the succeeding Chapter.

Extent of  
criminal  
jurisdiction  
which may  
be conferred.

13. In the light of the foregoing remarks, the offences so far made triable by nyaya panchayats under one or the other of the State Acts now on the statute book may be examined with a view to determining whether such jurisdiction should be vested or otherwise.

Sections of the I.P.C.	Nature of offence	Whether jurisdiction should be vested in nyaya panchayats or otherwise
140	Wearing garb or carrying token used by soldier, sailor or airman.	No. There is hardly any justification for this jurisdiction.
143	Being a member of an unlawful assembly.	No. It would be difficult for nyaya panchayats to try such offences.

Sections of the I. P. C.	Nature of offence	Whether jurisdiction should be vested in nyaya panchayats or otherwise
145	Joining or continuing in unlawful assembly knowing it has been commanded to disperse.	No. It is significant that in U.P. and Delhi these offences are triable by nyaya panchayats only if they are transferred to them by the regular courts. No case seems to have been transferred so far and it is unlikely that any case would be so transferred hereafter.
147	Rioting by unlawful assembly.	No. Only the Bihar Act confers such jurisdiction.
151	Knowingly joining or continuing in assembly of 5 or more persons after it has been commanded to disperse.	No. As under section 145 <sup>1</sup> these offences are triable by nyaya panchayats in U.P. and Delhi only if they are transferred to them.
153	Wantonly giving provocation with intent to cause riot—if rioting be committed.	No. Here again, under the U.P. and Delhi Acts the offences are triable only if transferred.
160	Affray.	Yes.
172*	Absconding to avoid service of summons or other proceeding.	Yes.
174*	Non-attendance in obedience to an order from public servant.	Yes.
175*	Omission to produce document to public servant by person legally bound to produce it.	Yes.
178*	Refusing oath or affirmation when duly required by public servant to make it.	Yes.
179*	Refusing to answer public servant authorised to question.	Yes.
180*	Refusing to sign statement.	Yes.

\*Although we agree that jurisdiction under sections 172, 174, 175, 178, 179 and 180 may be conferred on nyaya panchayats, in the actual application of these sections the following limitation appears to be necessary. Jurisdiction under these sections should, in our opinion, be confined to offences in relation to orders, etc., issued by nyaya panchayats, as otherwise it is likely prejudicially to affect the functioning of ordinary courts. If jurisdiction in respect of all offences under these sections were to be exercised by nyaya panchayats it would not only cause unnecessary wastage of public money and time in the shape of magistrates, judges and other public servants having to appear before nyaya panchayats as witnesses, but also serious embarrassment to them in the discharge of their duties as revisional authorities or otherwise. To a possible objection that nyaya panchayats should not try offences committed in relation to their own orders but should have them tried by some other nyaya panchayats, the answer may be that, following the analogy of sections 480 and 485A of the Code of Criminal Procedure, 1898, it would not be incorrect to vest such jurisdiction in the same nyaya panchayat particularly as the punishment which may be imposed would be small (this can be further restricted if need be) and there is the further safeguard of the matter being tested in a revisional court.

Sections of the I. P. C.	Nature of offence	Whether jurisdiction should be vested in nyaya panchayats or otherwise
168	Disobedience to order duly promulgated by public servant.	No. No objection if case is transferred by the regular court for trial.
202	Intentional omission to give information of offence by person bound to inform.	No. There is hardly any point in giving this jurisdiction.
228	Intentional insult or interruption to public servant sitting in judicial proceeding.	No. Under this section the court may be both prosecutor and judge and therefore care has to be taken in the conferment of this power, particularly where no procedural safeguards may be available. The nyaya panchayat can without difficulty lodge a complaint before the regular court under this section. (Compare the decision in <i>Asharfila Vs. The State</i> , 1951 All L.J. 537, where the complaint was lodged by the sarpanch on behalf of the panchayati adalat). This would be a better course to adopt in the generality of these cases. Some Acts have included a separate provision for the punishment of insults to nyaya panchayats, the fine leviable ranging from Rs. 5 to Rs. 50. Although we have no serious objection to such a provision, the better course would appear to be to leave it to the ordinary courts to punish such contempts.
264	Fraudulent use of false instrument for weighing.	No. The punishment is quite high. Nor is the present moment opportune for the conferment of such power.
265	Fraudulent use of false weight or measure.	
267	Making or selling false weight or measure.	
269	Negligent act likely to spread infection of disease dangerous to life.	No objection if considered necessary.
270	Malignant act likely to spread infection of disease dangerous to life.	No. This is an aggravated form of the offence under section 269.
273	Sale of noxious food or drink.	No. Although the Uttar Pradesh Panchayat Raj Amendment Act Committee (1954) has recommended otherwise.
277	Fouling of water of public spring or reservoir.	Yes.

Sections of the I.P.C.	Nature of offence	Whether jurisdiction should be vested in nyaya panchayats or otherwise
278	Making atmosphere noxious to health.	Yes.
279	Rash driving or riding on a public way.	No objection if considered necessary.
283	Danger or obstruction in public way or line of navigation.	Yes.
285	Negligent conduct with respect to fire or combustible matter.	No objection if considered necessary.
286	Negligent conduct with respect to explosive substance.	No objection if considered necessary.
289	Negligent conduct with respect to animal.	Yes.
290	Public nuisance in cases not otherwise provided for.	Yes. But a difficulty may arise with regard to the interpretation of the words 'not otherwise punishable by this Code' in determining the exact scope of this section in its application to nyaya panchayats.
291	Continuance of nuisance after injunction to discontinue.	No.
294	Obscene acts and songs.	Yes.
323	Voluntarily causing hurt.	Yes.
332	Voluntarily causing hurt to deter public servant from his duty.	No.
334	Voluntarily causing hurt on provocation.	Yes. This is really a proviso to section 323.
336	Act endangering life or personal safety of others.	No objection if considered necessary.
341	Wrongful restraint	Yes.
352	Assault or criminal force otherwise than on grave provocation.	Yes.
354	Assault or criminal force to woman with intent to outrage her modesty.	No.
356	Assault or criminal force in attempt to commit theft of property carried by a person.	No objection if considered necessary.

Sections of the I.P.C.	Nature of offence	Whether jurisdiction should be vested in nyaya panchayats or otherwise
357	Assault or criminal force in attempt wrongfully to confine a person.	No. Does not appear to be necessary.
358	Assault or criminal force on grave provocation.	Yes.
370	Buying or disposing of any person as a slave.	No.
374	Unlawful compulsory labour.	No objection if considered necessary.
379	Theft . . . . .	Yes, as a matter of necessity, but jurisdiction may be restricted to cases where the value of the property stolen does not exceed Rs. 50.
380	Theft in dwelling house, etc.	No.
381	Theft by clerk or servant of property in possession of master.	No.
403	Dishonest misappropriation of property.	No objection if considered necessary, but jurisdiction may be restricted to cases where the value of the property misappropriated does not exceed Rs. 50.
406	Criminal breach of trust.	No.
411	Dishonestly receiving stolen property.	Yes, as a necessary corollary to section 379, but with similar restriction as respects the value of the property received and recovered.
417	Cheating . . . . .	No for the time being.
420	Cheating and dishonestly inducing delivery of property.	No.
426	Mischief . . . . .	Yes, but jurisdiction may be restricted to cases of damage or loss up to Rs. 50.
427	Mischief causing damage to the amount of fifty rupees, or upwards.	No, in view of column 3 against section 426.
428	Mischief by killing or maiming animal of the value of ten rupees or upwards.	Yes.



Sections of the I.P.C.	Nature of offence	Whether jurisdiction should be vested in nyaya panchayats or otherwise
429	Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees or upwards.	No, as not being necessary in view of the conferment of jurisdiction under section 428.
430	Mischief by injury to works of irrigation or by wrongfully diverting water.	No.
431	Mischief by injury to public road, bridge, river or channel.	No. The offence is serious.
447	Criminal trespass	Yes, but the definition is vague and wide.
448	House trespass	No objection if considered necessary.
461	Dishonestly breaking open receptacle containing property.	No.
497	Adultery	No.
498	Enticing or taking away or detaining with criminal intent a married woman.	No.
504	Intentional insult with intent to provoke breach of the peace.	No objection if considered necessary.
506	Criminal intimidation	No objection if considered necessary. On the other hand in view of the punishment prescribed for the two types of offences specified in the section, the better course may be either not to vest this jurisdiction in nyaya panchayats or vest only that jurisdiction which is contained in the first part of the section.
509	Word, gesture or act intended to insult the modesty of a woman.	Yes.
510	Misconduct in public by a drunken person.	Yes.

The offences specified above generally should and do include attempts to commit, or the abetment of, such offences.

Offences  
under other  
laws.

14. In addition to the offences above referred to, a few other offences have been made triable by nyaya panchayats and, in our opinion, there is no objection to the conferment of such additional powers. We have, however, examined them with a view to ensuring that offences so placed within their cognizance are based more or less on the principles we have enunciated earlier, and where the offence is likely to involve complicated issues we have chosen to remove them from the purview of nyaya panchayats. As a result of such examination, we think that the following offences may be tried by nyaya panchayats:—

### *Central Acts*

The Police Act, 1861.	Section 34.
The Public Gambling Act, 1867.	All offences other than the offences under section 15.
The Cattle Trespass Act, 1871.	Sections 24, 26 and 27.
The Vaccination Act, 1881.	Section 22, clauses (a) and (c).
The Prevention of Cruelty to Animals Act, 1960.	Sections 11 and 26.

Offences  
under gram  
panchayat  
Acts.

15. Offences under the Gram Panchayat Act are also within the cognizance of nyaya panchayats and correctly so. In this connection, it was suggested in some quarters in Punjab that from this point of view it is necessary to vest in the same body of panchas both executive and judicial powers as otherwise the executive body may find itself hampered in the implementation of its developmental schemes. We do not agree, nor do we see much force in the contention. This point has already been discussed and the very ground advanced suggests that the powers should be kept separate. Offences under State Acts relating to primary education, juvenile smoking, etc., are also generally within the cognizance of nyaya panchayats. We can also conceive of other offences like offences under the Forest Act, 1927, the Untouchability (Offences) Act, 1955, Acts relating to weights and measures being brought within the cognizance of nyaya panchayats in the near future. These offences can be brought within their jurisdiction when we are satisfied that there is no likelihood of nyaya panchayats being swayed by considerations of misplaced sympathy with the offenders, as may happen in the case of forest offences. In these circumstances, we would recommend the inclusion of a provision for additions being made to the list of offences within the cognizance of nyaya panchayats as and when justified. In fact, we find that many Acts contain a provision in this behalf.

16. Having stated that nyaya panchayats should not have the power to award any substantive sentence of imprisonment, the question arises whether any limit should be placed on their power to impose sentences of fine. Such a limitation exists in almost all the Acts and in our opinion such a limitation is very desirable. We cannot conceive of nyaya panchayats inflicting heavy sentences of fine even if it be within their competence, for reasons which are obvious. In fact, in a district in Gujarat which we visited the fine levied under the old law had invariably been Re. 1, the reason given being that in most cases the accused admitted their guilt. The maximum fine under the various Acts ranges from Rs. 15 in Madras (where it has remained static from 1888) to Rs. 250 in Assam (where nyaya panchayats are yet to be constituted). In Punjab, a panchayat with enhanced powers may levy a fine which may go up to double the value of the property in respect of which the offence is committed, that is to say, in some cases up to Rs. 500. In the new Andhra Pradesh Bill, 1961, we find a provision under which the limits of fine vary according to the nature of the offence. We think that having regard to the evidence before us, both official and non-official, and the present stage of development of nyaya panchayats in the country, the maximum amount of fine may for the time being be fixed at Rs. 50. There appears to be no need to specify different limits for different offences because of this limitation. The maximum limit of fine can be increased, say to rupees 100, in any State if the State Government feels justified in doing so. In such an event, the State Government would also have to consider the desirability of correspondingly increasing the limits specified against sections 379, 403, 411 and 426 of the Indian Penal Code. Otherwise, any increase in the limit of rupees 50 suggested may be left to be re-considered after the expiry of some time when sufficient experience has been gained of the working of the Act.<sup>1</sup>

Limits to powers of fine.

17. In the Chapter on Procedure we deal with the manner in which fines imposed by nyaya panchayats may be realised. We do not consider it desirable to vest any power in nyaya panchayats to impose any sentence of imprisonment in default of payment of fine although quite a few panchas were vehemently in favour of such a power in order to make nyaya panchayats more effective.

No power to inflict sentence of imprisonment in default of payment of fine.

18. Whether the criminal jurisdiction sought to be vested in nyaya panchayats should be concurrent or exclusive is a question which presents certain difficulties. For instance, it was urged before us by some of the official witnesses at Chinsura in West Bengal, who had made a careful study of this aspect, that by fixing the maximum

Jurisdiction to be exclusive.

<sup>1</sup> A view has been put to us that all fines levied should be credited to the State so that no bitterness is left behind. Adoption of this principle may not always be just to the complainant, and may not also produce the desired effect.

punishment as one of fine up to Rs. 50 we are really down-grading the relevant offences. The proper course to adopt, in their opinion, would be that in respect of offences where the punishment under the Indian Penal Code is a sentence of imprisonment up to 3 months or 6 months, the jurisdiction should be concurrent, and where the punishment is more than 6 months, the offences being grave, should be triable by nyaya panchayats only if made over to them by the regular court. Such cases, if tried *suo motu* by nyaya panchayats may end in a failure of justice and a regular court sitting in revision would seldom find it possible to set right the position. It was also observed in some quarters that in order to build up confidence in nyaya panchayats and, in particular, in the interest of the accused, criminal jurisdiction should be concurrent for some time to come. Notwithstanding these observations which cannot lightly be brushed aside, we think that on the whole, particularly in the light of the examination we have made of the several offences which may be tried by nyaya panchayats, the criminal jurisdiction which may be vested in nyaya panchayats should be exclusive; otherwise the institutions are not likely to be effective at all. A provision which says simpliciter that the jurisdiction of nyaya panchayats in respect of these offences shall be concurrent with that of the ordinary court may also be constitutionally objectionable on the ground of discrimination;<sup>1</sup> and although devices can be thought of to get over the objection, the devices may only lead to the weakening of nyaya panchayats.

Power to  
issue  
prohibitory  
orders,  
demand  
security,  
etc.

19. In some States nyaya panchayats are given power to issue orders of the nature contemplated by section 144 of the Code of Criminal Procedure, 1898<sup>2</sup> with suitable safeguards as regards the duration of such orders, their confirmation and other like matters, and evidence was placed before us by some panchas that these powers require to be enlarged, for example by the extension of the period of the order. In the same way, some nyaya panchayats are empowered to require persons to furnish security for keeping the peace or for good behaviour<sup>3</sup> and it is argued in support of this provision that it is very necessary in the village. We are also aware that the Uttar Pradesh Panchayat Raj Amendment Act Committee recommended in strong terms the continuance of such powers when there was a proposal to delete the relevant section. Using the language of the Bihar Police Commission's Report, 1961, in another context, the task of controlling and regulating the exercise of rights of freedom of speech, of forming associations or of assembly or of movement guaranteed by the Constitution is far more difficult and complex today than in the days of the British rule. An interference with the exercise of these fundamental rights is limited by

<sup>1</sup> See *Baldeo Singh V. State of Bihar*, A.I.R. (1957) S.C. 612.

<sup>2</sup> Eg. s. 64 of the Bihar Panchayat Raj Act, 1947.

<sup>3</sup> Section 63 of the Uttar Pradesh Panchayat Raj Act, 1947.

the absolute necessity of maintaining law and order and social peace. The necessity has to be carefully judged in each case and the discretion properly exercised. Apart from the fact that these powers have far reaching potentialities, it appears to be neither necessary nor desirable to vest such powers in a purely judicial body. The majority of the witnesses who appeared before us are opposed to the conferment of these powers and we agree with them.

20. Provision is also to be found in some Acts for the grading of nyaya panchayats into first class, second class and third class or for the conferment of enhanced powers on selected nyaya panchayats. We do not think that such a classification is necessary. In a scheme in which the term of office of members of nyaya panchayats is limited, and a process of election, whether direct or indirect, takes place at stated intervals, the task of classifying nyaya panchayats into categories or conferring enhanced powers would become extremely awkward. The powers conferred will have to be steadily watched from time to time and may have to be withdrawn when a new set of persons assume office. The tests to be applied would also be difficult to determine. Should they be based on the composition of a particular nyaya panchayat at a given moment, that is to say, the qualifications of its members or its proved worth over a period of years in disposing of cases satisfactorily, whether by settlement or otherwise. As stated before, whatever the tests may be, the powers conferred may have to be withdrawn in some cases after an election and this may not be in the best interests of either the nyaya panchayat or of the village concerned. We may add that when this point of view was put before the witnesses who were in favour of such classification, they readily withdrew their support to it. Further, having regard to the nature of the jurisdiction which we envisage, such a classification is not called for.

#### *D. Revenue jurisdiction*

21. A certain amount of hardship appears to be experienced by villagers in getting mutations effected, boundary disputes settled and land record registers corrected, and born of this is a desire expressed by certain villagers and panchas that jurisdiction in respect of such matters should be vested in nyaya panchayats. The hardship appears to have arisen mainly by reason of the delay that is said to be taking place in revenue offices and the harassment caused in many cases by petty officials. The official view, on the other hand, is uniformly opposed to the conferment of any such jurisdiction. The reasons given are that there is a well established organisation with a hierarchy of officials for dealing with such matters, that the conferment of any such jurisdiction on nyaya panchayats would cause an unnecessary and undesirable dislocation in the maintenance and

custody of revenue records, that having regard to the importance of these records and the frequency with which boundary disputes occur in villages it would be extremely unwise to vest any such jurisdiction in nyaya panchayats, more so when under the law in disputed cases of succession, transfer, etc., the matter has to go to no less a person than the Collector for orders. The persons who have attempted to put forward a case for the conferment of this jurisdiction themselves realise the force of these objections and when confronted with them are prepared to modify their demand to one of jurisdiction in undisputed cases of succession, transfer, etc. In our opinion, the vesting of such revenue jurisdiction will only serve to make matters more complicated. Without making any statutory provision in this behalf, it should be possible for the officials concerned to obtain from nyaya panchayats reports as to succession and transfers which have taken place in the village and give the reports the value they deserve. We would recommend accordingly. As regards any legitimate grievances based on delay and harassment, we would invite the attention of the Government to them wherever they exist and leave it to the Government to find an adequate remedy therefor by suitable executive action.

## CHAPTER X

### CONCILIATION

Importance  
of concilia-  
tion as a  
method of  
settling  
village  
disputes.

1.1. The importance of conciliation as a method of settling disputes amongst members of groups or communities or organisations which have to function as a unit can hardly be over-emphasised. Conciliation involves a solution acceptable to all parties to a dispute. It minimises friction, avoids bitterness and thus paves the way for the growth of harmonious relations. Its importance in the sphere of industrial and labour disputes is already well-recognised all over the world. In our country, it has been playing a significant role<sup>1</sup> in the sphere of village disputes and there is every possibility of its playing a still more significant role. Villagers have to pull together as a unit and it is necessary to foster harmonious relations amongst them in the interests of the village and of the nation. Commenting upon the provisions of the Bihar Panchayat Raj Act, 1947, which make it a duty of gram cutcheries (nyaya panchayats) established under that Act to endeavour to bring about an amicable settlement before proceeding to adjudicate upon a dispute, Imam J. (then of the Patna High Court) observed:—

“The purpose behind these provisions was that the panchas forming the bench of the gram cutchery

<sup>1</sup>In an earlier Chapter we have referred to the success of conciliation committees in Yugoslavia. See Chapter III, paragraph 16.

would bring about harmony and peaceful relations which were so essential for the development of community life in villages".<sup>1</sup>

1.2. All the witnesses who gave evidence before us are convinced as to the necessity and the merits of settling village disputes by conciliation. The villagers, and more particularly the members of nyaya panchayats, pointed out with considerable force that most of the disputes are over petty matters and that a little bit of sober talk under the guidance of respectable village elders, in short conciliation, generally suffices to put an end to such disputes. Even where the cases are more serious, they say that it is essential for the maintenance of amity in the village that every attempt is made to settle them also amicably. In fact, the practice followed by panchayats all over the country at the present moment is to make every endeavour to settle the disputes wherever possible, rather than to adjudicate upon them. This is clear from the percentage of cases disposed of by compromise in the various panchayats all over the country.<sup>2</sup> We are happy to note that the various State Acts contain provisions in some form or the other for settlement of disputes by conciliation. Both on a *fortiori* grounds and on the facts as they have emerged, we are satisfied as to the necessity for ensuring that disputes amongst villagers are settled, as far as possible, amicably and in a spirit of conciliation.

2. While there is complete agreement about the necessity for encouraging settlement of disputes by conciliation there exists some difference of opinion about the mode in which this may be best accomplished and to some extent also with regard to the categories of disputes which may be allowed to be settled by conciliation. This divergence is reflected in the evidence recorded by us. It also emerges from a comparative study of the provisions in the various State Panchayat Acts. The matter can be discussed under three heads, namely:—

Divergence of opinion as to mode in which and the extent to which conciliation may be effected.

(i) Should resort to conciliation be made obligatory?

(ii) What should be the machinery by which conciliation may be effected?

(iii) What categories of disputes may be allowed to be settled by conciliation?

In our opinion all these questions raise problems of a general character admitting of common solutions on an all-India basis.

<sup>1</sup>Nivas V. Amar I.L.R. 1953, Pat. 436 (443).

<sup>2</sup>It ranges roughly from 30% in Uttar Pradesh to about 70% in Orissa.

Should  
resort to  
conciliation  
be made  
obligatory?

3.1. We have given anxious thought to the question whether resort to conciliation should be made obligatory. In other words, should it be laid down that a dispute shall not be adjudicated upon until efforts at conciliation have failed or should an enabling provision be made leaving resort to conciliation to the initiative of the parties or alternatively should a directory provision imposing a duty on the court to encourage settlement by conciliation be made.

3.2. Provisions making resort to conciliation a condition precedent to adjudication, occur for example in the Bihar Act. Section 58 of the Bihar Panchayat Raj Act, 1947, provides thus:—

“A bench of the Gram Cutchery, while hearing a suit or trying a case ..... shall..... endeavour to bring about an amicable settlement between the parties.....”.

And section 59 of the Act provides *inter alia* that where the bench does not succeed in bringing about an amicable settlement it shall proceed to adjudicate. Section 30(1) of the Kerala Village Courts Act, 1960, lays down that the village courts under that Act shall “first endeavour to bring about an amicable settlement between the parties”. Two recent State Bills, the Madhya Pradesh Panchayats Bill, 1960, and the Andhra Pradesh Village Panchayats Bill, 1961, contain provisions making resort to conciliation obligatory. In Gujarat also, an Act containing a similar provision has been passed recently.<sup>1</sup>

3.3. In the majority of State Acts, however, resort to conciliation is left to the initiative of the parties, the Acts merely providing for the disposal of a proceeding according to any settlement or compromise which may be arrived at. We may mention in this connection Uttar Pradesh,<sup>2</sup> Orissa,<sup>3</sup> Punjab,<sup>4</sup> Rajasthan,<sup>5</sup> Delhi,<sup>6</sup> Jammu and Kashmir,<sup>7</sup> and Bombay<sup>8</sup> Acts. The West Bengal Act contains only a provision<sup>9</sup> enabling nyaya panchayats to permit the compounding of any offence triable by it. In substance the position under the Act is the same as that under the Uttar Pradesh Act inasmuch as a nyaya panchayat, like any other court possesses an inherent power to pass a decree in a civil suit in accordance with the agreement of the parties.

<sup>1</sup> Gujarat Panchayats Act, 1961 (Gujarat Act No. VI of 1962), s. 246.

<sup>2</sup> U.P. Panchayat Raj Act, 1947, s. 82.

<sup>3</sup> Orissa Grama Panchayats Act, 1947, s.86.

<sup>4</sup> Punjab Gram Panchayat Act, 1952, s. 68(1).

<sup>5</sup> Rajasthan Panchayat Act, 1953, s. 53.

<sup>6</sup> Delhi Panchayat Raj Act, 1954, s. 71.

<sup>7</sup> Jammu and Kashmir Village Panchayats Act, 1958, s. 105.

<sup>8</sup> Bombay Village Panchayats Act, 1959, s. 104.

<sup>9</sup> West Bengal Panchayat Act, 1956, s. 76.



3.4. We may, however, observe that in the vast majority of cases it has made no difference in practice whether or not resort to conciliation is made compulsory. For example, in a State like Orissa where the compulsory system is not in vogue, the percentage of cases disposed of by conciliation is very large and it works out roughly to 70 per cent. This seems to be because of the traditional preference amongst our villagers to have their disputes settled by conciliation. On the other hand some of the witnesses in Andhra Pradesh seemed to suggest that any compulsion in the matter of conciliation may not always be relished. Such provisions may also give rise to a new category of revision petitions as illustrated by the Patna case referred to earlier in this Chapter.<sup>1</sup> Be that as it may, whatever advantages the compulsory system may have, can be adequately secured by laying down a general provision indicating the desirability of facilitating the settlement of disputes by conciliation as far as possible and by impressing upon the agency to be entrusted with the task of conciliation the importance of conciliation. The matter should not be left merely to the initiative of the parties. As suggested by the Judges of the Bombay High Court, a provision somewhat on the lines of section 23(2) of the Hindu Marriage Act, imposing a duty on the court, before granting any relief, to make every endeavour to bring about a reconciliation in every case would serve the purpose admirably and we recommend the adoption of such a provision. Such a provision, without being rigid, will serve to draw attention to the importance of conciliation and at the same time suffice to render possible the maximum use of conciliation in the settlement of disputes, whatever be the agency for the purpose.

4.1. We now proceed to consider the question as to the appropriate machinery for effecting conciliation. Where conciliation is left exclusively to the initiative of the parties<sup>2</sup> the question of making any provision for any machinery does not arise. We have pointed out earlier that it is not desirable to leave the matter exclusively to the initiative of the parties and that it would be desirable to entrust the task of encouraging conciliation to some agency. The basic problem is whether this agency should be the nyaya panchayat itself or some other body. If it is to be some other body, should it be the gram panchayat or some specially constituted body? Some witnesses have preferred the gram panchayat in this behalf, the main reason being that shorn of any semblance of judicial power the gram panchayat would suffer in prestige and importance. No honest body of persons exercising statutory powers should require any

Machinery  
for  
effecting  
conciliation.

<sup>1</sup> See ante p. 90. See also the following cases : A.I.R. 1954, Pat. 157; A.I.R. 1954, Pat. 195, 1960 Patna Law Reports, 168.

<sup>2</sup> For example, Uttar Pradesh, Orissa, Rajasthan, Delhi, Jammu and Kashmir, Bombay and West Bengal Acts.

artificial props to boost up its prestige and importance; much less a gram panchayat whose ever increasing public functions of a developmental character are more than adequate to make its influence fully felt in the village. Further, if the executive panchayat itself were required to conciliate, conciliation, instead of proving to be an effort at persuading the parties voluntarily to come together, may turn out to be a coercive effort on the part of the panchayat. In this connection the earlier discussions with respect to the division of judicial and executive functions may be recalled.<sup>1</sup> Above all, the hands of the gram panchayats would be so full with the executive functions already vested in them, that to vest in them this additional work of conciliation with its own special procedure would be to let one part of their work suffer at the cost of the other. It may also be added that the claims of gram panchayats for being entrusted with conciliation work would require consideration only if nyaya panchayats are not considered suitable and some other body has to be thought of.

4.2. A multiplicity of bodies and an excessive compartmentalisation is not conducive to efficiency, and as one of the Calcutta Judges remarked forcefully, "too many cooks spoil the broth". This seems to be the correct spirit in which the problem before us should be considered.

4.3. Several arguments have been advanced against entrusting conciliation work to nyaya panchayats. First, it has been said that if the adjudicating body itself were associated with conciliation, such of the members of that body as were associated with conciliation may approach the matter with a bias and prejudice where their efforts at mediation have failed. This was one of the objections raised in some quarters in Bihar to the practice in vogue in that State under which for effecting a compromise each of the parties selects his own panch and the sarpanch acts as the Chairman. The panchas who act as mediators subsequently sit on the bench trying the case where their efforts at conciliation have failed and it was said that those panchas are not likely to be free from bias. On the other hand, the spectacle of courts exhorting parties in fit cases to arrive at a compromise is not unknown in our country. Indeed it is an ideal which every good judge cherishes. We have also referred to the positive provision relating to conciliation in the Hindu Marriage Act and no difficulty seems to have been felt in regard to that provision. The Law Commission has since recommended the inclusion of a similar provision in the christian law of marriage and divorce also. We cannot conceive of any reason why any difficulty should occur if a similar provision is made in relation to nyaya panchayats. Further, we are recommending that the provision to be made in this behalf should have no rigidity about it, that is to say, it should not be incumbent on nyaya pan-

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<sup>1</sup> *Ante*, Chapter V., paragraph 2.

chayats in all cases to bring about a compromise by themselves.

4.4. Secondly, it has been pointed out, that where a nyaya panchayat is established for a group of villages the nyaya panchayat would not contain a sufficient number of persons conversant with local conditions and possessing local knowledge and influence to bring about compromises. For similar reasons the Gujarat Democratic Decentralisation Committee has recommended the setting up of separate bodies for conciliation work. The Committee observed: "In order to preserve the important and useful element of settling quarrels between the parties in a village by reconciliation, our committee considers it essential to have some special arrangement within the village for reconciliation before any suit or complaint is presented before the nyaya panchayat."<sup>1</sup> At the time of this report the grouping system of nyaya panchayats was not actually in operation in Gujarat and the view of the committee is perhaps not based on any practical experience. But the contention deserves serious consideration. The argument based on local knowledge is sufficiently met by the fact that in the nyaya panchayat, as we envisage it, one or more persons conversant with the local conditions and possessing local knowledge would always be available. In addition, the fact that the nyaya panchayat is for a wider area has the additional advantage that it would command an attitude of detachment so essential in the proper determination or settlement of disputes. We may add that the majority of the witnesses who have spoken on the subject do not favour the constitution of a separate body for conciliation purposes. Such of the evidence as there is in favour of a separate body has come only from those few States where provision exists or is being proposed for a separate body, and even here there is a great divergence of view on the subject.

4.5. Thirdly, it has been observed by some witnesses in Andhra Pradesh that it would be more economical to have a conciliation board or bench in each village. In that case, only cases not compromised would be taken up to the nyaya panchayat. In judging the merits of this argument which seems to be based merely on the distances to be traversed, we have to bear in mind the area for which a nyaya panchayat will be established. In the scheme proposed by us a nyaya panchayat circle will be so demarcated that a litigant to whatever village in the circle he may belong, will not have to travel a longer distance than five or six miles. In the circumstances considerations of economy would not be weighty enough to justify a separate body for conciliation work. In this connection we may refer to the system obtaining in the

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<sup>1</sup>Report of the Democratic Decentralisation Committee (Gujarat) Part I (1960), p. 51.

Madhya Bharat region of Madhya Pradesh. Under this system a large number of villages—some times numbering as many as 100 as in the case of the Mhow kendra panchayat—are grouped under one nyaya panchayat and conciliation boards are provided for in each village. The Madhya Pradesh Rural Local Self-Government Committee, relying upon the successful functioning of these conciliation boards, has recommended the extension of the same system to the entire State.<sup>1</sup> In the context of a system envisaging a nyaya panchayat for a large number of villages extending over a vast area, separate conciliation boards may perhaps be understandable but we do not contemplate nyaya panchayats for such large areas as their own utility would be affected thereby.

4.6. In Himachal Pradesh, provision is made for a Samjhauta Samiti to be constituted by the Pradhan or the head of the gram panchayat on receipt of a formal application for the compromise of a civil dispute or a criminal case. The Samjhauta Samiti consists of the Pradhan and two to four other members chosen in the prescribed manner. No nyaya panchayat can entertain any proceeding unless an application for compromise is made in the first instance to the Samjhauta Samiti and three months have expired from the date of the application. Incidentally, the time spent before the Samjhauta Samiti is excluded for the purpose of limitation. The reasons which could have prompted the creation of such a body must be one or other of those already discussed or a combination thereof.

Why conciliation work should be entrusted to nyaya panchayats.

5.1. Having disposed of the arguments in favour of the view that conciliation work should be entrusted to agencies other than nyaya panchayats, we may now consider why it is pre-eminently desirable that this work should be entrusted to the nyaya panchayats themselves.

5.2. We have already observed that multiplicity of bodies does not conduce to efficiency. It will only lead to delay and more expenses. The Andhra Pradesh Bill may be referred to in this connection by way of illustration. Under that Bill a suit instituted before a nyaya panchayat has to be referred to the sarpanch of the panchayat of the village which in the opinion of the nyaya panchayat would be convenient to the parties. Thereupon a conciliation board consisting of the sarpanch and two persons nominated by the contending parties is formed. If the parties do not make any such nomination the panchayat will elect the members. Provision is made for the summoning of the parties for hearing and so on and although the whole proceeding is to terminate within one month of its reference, it is very unlikely that the time prescribed would be sufficient. The whole approach has been made unneces-

<sup>1</sup> Report of the Rural Local Self-Government Committee, 1959, p. 81.

sarily formal and rigid. We may observe in passing that in Himachal Pradesh a period of three months is fixed for a similar purpose but it is fair to add that complaints were made that it is too long.

5.3. Again, it would be incorrect to assume that a separate body set up purely for conciliation purposes would be able to bring about compromises in a greater measure than a body which has the authority to adjudicate upon an issue. This point does not require much elaboration to carry conviction. A further objection to the creation of separate bodies is that the time taken in conciliation may enable the parties to manipulate the evidence and distort truth when the case actually comes up before the nyaya panchayat for hearing. It would be fruitless to provide for two separate formal proceedings and therefore some of the Acts which contain provisions in this behalf only provide for the filing of statements by the two parties explaining the facts of the case and although witnesses may be brought, no evidence is recorded at the conciliation stage. Whatever the procedure may be, during the conciliation proceedings the parties will have ample opportunities to find out the weaknesses of their case and they may naturally try to cover them up when the case goes before the nyaya panchayat. The position would be entirely different if the nyaya panchayat which is seized of the case itself endeavours to promote conciliation and we have already observed that there can be no fundamental objection to such a course.

5.4. Nor does the volume of work justify separate bodies for conciliation. After a careful consideration of the figures relating to cases instituted before nyaya panchayats in Uttar Pradesh during the years 1950—56, Shri Chooramani<sup>1</sup> sums up thus:—

“The total number of cases works out to an average of 35 cases per year per panchayati adalat or about 3 cases per month. The average for the population is one case to every 750 persons. The average for each populated village comes to 4 cases per year.”

The position in other States cannot be, generally speaking, appreciably different. If a separate body for conciliation work were created the nyaya panchayat would possibly be left with little or no work.

5.5. We are therefore of the opinion that it is not correct to be swayed by doctrinaire considerations or theoretical assumptions. Above all, there can be no case for a separate body for conciliation work if an elastic provision

<sup>1</sup> G.S. Chooramani: Nyaya Panchayats and Panchayati Adalats in Uttar Pradesh, p. 30.

were made drawing attention to the importance of settling disputes by conciliation while at the same time avoiding any impression that the members of the nyaya panchayat alone should effect conciliation in all cases. The actual method and manner of bringing about conciliation may, subject to any rules that may be made, be left to be devised by the nyaya panchayat taking into account the circumstances of each case. Such an approach will meet all points of view and would suit all situations while at the same time avoiding duplication of bodies and the consequent rigidity of approach.

Categories  
of disputes  
for conciliation.

6.1. The next question relates to the categories of disputes which may be allowed to be settled by conciliation. In the case of most of the State Acts, the approach has been to permit settlement by conciliation in regard to all cases within the jurisdiction of the nyaya panchayat. In a few Acts, however, conciliation is permitted only in regard to civil cases and compoundable offences. An instance in point is section 53 of the Rajasthan Panchayat Act, 1953. On the other hand in a few Acts conciliation is permitted even with regard to matters not within the jurisdiction of the nyaya panchayat. Thus section 32 of the Uttar Pradesh Panchayat Raj Act, 1947, empowers the nyaya panchayat to decide any dispute arising in its local area and not pending in any court, in accordance with any settlement, compromise or oath agreed upon in writing by the parties. The Act does not define the expression dispute and if the term includes offences it would take in even a murder case! The Delhi Panchayat Raj Act, 1954, embodied a similar provision as to civil and revenue disputes but by an amendment of 1959 the scope of the provision has been restricted in terms of monetary value of the suit or proceeding.

6.2. We are of opinion that it is only reasonable to permit conciliation in respect of matters within the jurisdiction of nyaya panchayats. This may involve cutting across the distinction made by the Code of Criminal Procedure, 1898, between compoundable and non-compoundable offences, but in view of the limited nature of the criminal jurisdiction we have proposed for nyaya panchayats as also the larger interests of amity in villages we see no objection to the deviation. We are, however, of opinion that one must think twice before permitting offences other than those within the jurisdiction of nyaya panchayats to be compounded even if the parties agree. We are not unmindful of the suggestion made to us by no less a person than Shri S. K. Dey, Union Minister for Community Development and Co-operation, that all cases short of murder should be allowed to be compromised or compounded. But in the administration of criminal justice the interest of the State in maintaining law and order is of paramount importance and great caution is needed in making any attempt to

abridge that principle. We therefore recommend that conciliation in criminal cases should be restricted only to cases which could be tried by the nyaya panchayats. The objection based upon the interest of State cannot be raised in the case of civil matters and indeed some of the Acts, e.g., Uttar Pradesh and Delhi, concede rather a wide scope for conciliation. Section 71 of the Delhi Panchayati Raj Act, 1954, provides that it shall be lawful for a panchayati adalat to 'decide' any suit the value whereof does not exceed the pecuniary limits of the appellate jurisdiction of the civil sub-judge, in accordance with any settlement, compromise or oath agreed upon by the parties. The provision in the Uttar Pradesh Act is much wider inasmuch as no pecuniary limit is prescribed. It is not clear what is meant by *deciding* in accordance with settlement, etc. Be that as it may, we feel, as mentioned elsewhere, that it would not be correct to empower nyaya panchayats to hear and determine any suit irrespective of its nature and value, merely because the parties have agreed thereto. After all, a nyaya panchayat should be able to appreciate the matter before it before putting its seal of approval. Accordingly we recommend that the scope of conciliation in civil cases should be restricted only to matters which could be adjudicated upon by nyaya panchayats either with or without the consent of the parties.

## CHAPTER XI

### PROCEDURE

1. Having regard to the composition and jurisdiction of nyaya panchayats and the conditions in which they are expected to function, there can be no doubt that the procedure for the disposal of matters coming before them should be as simple as possible, and we are satisfied that the utility of these institutions would be considerably reduced if the Acts relating to civil and criminal procedure and the technical rules of evidence contained in the Indian Evidence Act, 1872, are made applicable to them, assuming that it is feasible to do so. The criticism that is sometimes made that, as the Evidence Act and the procedural Codes do not apply and the nyaya panchayats are at liberty to discover the truth in any lawful manner they cannot possibly satisfy any of the recognised canons of administration of justice, proceeds, as the Law Commission has pointed out in its Fourteenth Report (page 914), from an erroneous view which regards these courts in the same manner as ordinary judicial tribunals when, in fact, they are essentially different. One of their main functions, if

Simplified  
procedure  
essential.

not their main function, is to bring about, as far as possible, compromises in respect of all the small disputes arising in the village. Failing to do so, they are expected to adjudicate upon them on broad principles of natural justice. We are glad to note that all the Acts, with the exception perhaps of the Kerala Village Courts Act, 1960, proceed on this basis and they expressly exclude the two procedural Codes and the Indian Evidence Act, 1872, in their application to *nyaya panchayats*. The Kerala Act, after making what in our opinion appear to be fairly comprehensive provisions relating to procedure, particularly in relation to suits, states that the Code of Civil Procedure, 1898, shall, to the extent to which it is not inconsistent with the Act and subject to any modifications which Government may make, apply to suits, executions and other proceedings in village courts. The Limitation Act, 1908, is also expressly made applicable, while in the absence of any reference to the Indian Evidence Act, 1872, the inference appears to be that that Act also applies. The high percentage of literacy, the absence of villages in the real sense of the term and the ease with which it is perhaps possible to obtain fairly highly qualified men to run the village courts appear to be the basis for these somewhat extraordinary provisions. Over many of the village courts in the Cochin area, we found advocates presiding and cases are tried with more or less the same formality as is observed in the regular courts; and the presiding officers also welcomed the appearance of legal practitioners for reasons not difficult to comprehend. But even in that State we would suggest for consideration a much simplified procedure which is so essential for the effective functioning of these institutions if they are to serve the purpose for which they are intended. Otherwise a stipendiary court of smaller jurisdiction would perhaps have been the appropriate substitute.

Principles  
of natural  
justice.

2. The procedure, which, as stated before, should be simple in character, should be prescribed either in the Act itself or in the rules made thereunder. While it would be correct and useful to borrow the language of the two procedural Codes for the purpose of detailing the procedure to the extent to which it is necessary, the language should be simplified wherever possible and it may not always be necessary to deal with all possible contingencies and make the procedure rigid. To ensure that the procedure of *nyaya panchayats* is above reproach what is necessary is that care should be taken to see that their proceedings are conducted in compliance with the well-established principles of natural justice. These principles are the products of accumulated experience and are as it were the *sine qua non* of the judicial process. If the Act and the rules are so framed as to embody these principles<sup>1</sup> and the principles

<sup>1</sup> *Vide* sections 32—35 of the draft Bill in Appendix I.



are explained in the manual<sup>1</sup> with adequate emphasis and in sufficient detail and if, in addition, proper attention is focussed on these principles in the training programmes for nyaya panchas it would be quite realistic to estimate that nyaya panchas would be able to observe these principles in practice.

3. With respect to the limitation of suits it would be more convenient, in our opinion, if provision is made in the Nyaya Panchayat Act itself in that behalf than to apply the Indian Limitation Act, 1908, in toto. The suits triable by nyaya panchayats being simple in character, there would appear to be hardly any need to apply the technical provisions contained in the Limitation Act for exclusions or extensions of time in certain cases. This is what the Uttar Pradesh Panchayat Raj Act, 1947, has done and we think that this precedent is worthy of acceptance. A uniform period of three years may be prescribed for all suits cognisable by nyaya panchayats, although this may result in a slightly longer period in certain cases. Similarly, in respect of criminal cases we would recommend the inclusion of a provision whereby cognizance of offences by nyaya panchayats after the expiry of, say, one year from the date of the commission of the offence would be barred. In the interests of the corporate life of the village, petty matters may be given a *quietus* once they have become stale.

4. As the number of panchas for any nyaya panchayat is likely to be large, provision will have to be made for the trial of cases by benches thereof, and the manner in which benches are to be constituted may be left to be worked out by rules. The benches may sit in rotation or may sit simultaneously in different places. They may, in certain cases, have to be formed *ad hoc*. The rules may also provide for full meetings of all the panchas at convenient times to discuss matters of common interest. The functions of the sarpanch and up-sarpanch will also have to be defined in relation to the functioning of benches. In this context, a question has been raised whether for eliminating factional or partisan influences it would not be advisable to exclude the panch or panchas representing a particular village on a nyaya panchayat if the dispute to be decided is from that village. Such panchas would have the advantage of knowing the parties, the subject-matter of the dispute and other facts relating thereto and to exclude them would be to deprive the nyaya panchayat of some very valuable assistance which is so necessary for the efficient and smooth working of these institutions, whether for the purpose of conciliation or for adjudication. In our opinion it is essential that such panchas should find a place

<sup>1</sup> See Chapter VII on Training, paragraph 7.

on the tribunal in the disposal of cases arising from their village.<sup>1</sup> While no decision or conviction can proceed on the basis of the personal knowledge of any of the panchas, his knowledge of the village and matters connected with it and the parties would be of great assistance in enabling the nyaya panchayat to arrive at compromises or to elicit the facts of a case from the parties and their witnesses. A provision which commends itself to us in this behalf is the one sought to be made in the Madhya Pradesh Bill that in the disposal of any proceeding before it the bench concerned should include at least one member from the village in which the plaintiff or complainant resides and one from the village in which the defendant or accused resides, and where both parties reside in the same village at least one member from that village. The recent Gujarat Panchayat Act embodies a similar principle. Formerly, such panchas were being excluded in conformity with the recommendation of the Law Commission. All the Acts contain the usual provision that personal interest in the subject-matter of the dispute would disqualify a panch from sitting on the tribunal and this is a salutary provision.<sup>2</sup>

Recording  
of evidence.

5. In all cases tried by nyaya panchayats we think that it is essential that a brief record of the evidence of each witness should be kept. It is not sufficient if the judgment briefly discusses the evidence given on either side with no separate record thereof kept. We note with satisfaction that in many of the records we have had occasion to examine in our tours the statements of witnesses have been recorded and in quite a few cases even in full, somewhat unnecessarily. The judgments should also give briefly the reasons for the decisions and here again we are happy to note that in most cases the nyaya panchayats are fully alive to their responsibility. Some of the judgments which we have read or have had read out to us are of considerable length and great pains have been taken in some of them by the nyaya panchayats concerned to discuss the evidence and the facts of the case to the best of their ability.

Certain  
procedural  
difficulties  
discussed.

6.1. We may record here with considerable satisfaction that in some of the States we visited, e.g., Uttar Pradesh,

<sup>1</sup> See in this connection *Musai Bhand and others v. Ganga Charan* A.I.R. (1953) All. 118.

<sup>2</sup> The expression 'personally interested' is very wide and would include pecuniary relationship, relationship in the ordinary sense, personal knowledge of the facts of the case or any element which is likely to bias the judge in hearing the case [*Umesh Chandra Mandal and Another v. Madhusudan Mandal*, (1957) P.L.R. 476; *Somar v. Gram Panchayat*, I.L.R. 34 Pat 50. It was therefore urged in some places that although the association of a panch from the village concerned may be beneficial, in most cases it may not be practicable to do so. While we cannot and do not recommend the omission of the disqualification based on personal interest, in the paragraph under discussion we think we have sufficiently attempted to explain how the two things could be reconciled.

Madhya Pradesh, Bihar and Delhi, to mention only a few, the interest evinced by panchas in the new institutions was considerable and detailed memoranda were presented to us explaining some of the procedural and other difficulties encountered by them in the trial of cases. For example, it was pointed out in one of these documents that so long as cause of action is not also made a basis for suits before nyaya panchayats, villagers will not fully benefit by these institutions. An urban dweller purchasing articles from a village on credit will be able to get away with it because he will not be residing within the jurisdiction of the nyaya panchayat. At present most of the Acts provide that the defendant or at least one of the defendants should be residing within the jurisdiction of the nyaya panchayat, and cause of action is studiously excluded (in our opinion, quite rightly) presumably because of the difficulties likely to be involved in the understanding of that expression, and in the serving of processes, execution of decrees and the like.

6.2. Again, it was said that where a complaint of theft is lodged with the police and action is taken, what the police invariably do is to transfer the complaint to the nyaya panchayat concerned if it has jurisdiction in that behalf and take no further interest in the matter. In Uttar Pradesh we were told that the police are not required to take cognizance of theft cases which are within the jurisdiction of nyaya panchayats. The panchas therefore suggested that the police should help them in getting the accused and the necessary witnesses produced before them, which perhaps meant that the police should more or less act as court prosecutors. We do not think that such a step would be desirable. All the cases before nyaya panchayats are to be tried in a summary way, the summons procedure being applicable in such cases. It is expected that in almost all the cases action before the nyaya panchayat would be initiated by a complaint. Where a complaint of a cognizable offence is lodged with the police, the police should not refuse to take cognizance thereof (whatever the value of the property may be, in cases where the value is material) but after due investigation, wherever necessary, should transfer all the papers, including the list of witnesses, to the nyaya panchayat and leave it to them to take further action in the matter. If the accused does not appear in obedience to a summons issued by the nyaya panchayat, the Act provides the necessary machinery to secure his production.

7. A question which arises in this connection is whether a trial before a nyaya panchayat can be allowed to proceed in the absence of the accused when all attempts to summon him have failed. In the Rajasthan Panchayat Act, 1955, it is provided that a nyaya panchayat may hear and decide

Absence of  
accused  
during  
trial.

a case *ex parte* in the absence of the accused if he has been informed of the time and place for hearing, but no sentence can be imposed on him unless he has appeared either in person or by agent and the substance of his statement has been recorded. In the Uttar Pradesh Panchayat Raj Act, 1947 (section 78) it is provided that nyaya panchayats may hear and decide a criminal case in the absence of the accused if summons have been served on him or if he has been informed of the time and place of hearing. We think that where a criminal prosecution is involved, however small it may be, all possible steps should be taken to ensure the production of the accused. In the circumstances the better course would be to provide a suitable machinery for his production under arrest, if need be, with the help of the regular court so as to ensure a fair trial to him. An arrest under the orders of a court would not attract the provisions of clause (1) of article 22 of the Constitution so as to entitle the accused to be defended by a legal practitioner of his choice.

Court fees.

8. We agree with the Law Commission in its Fourteenth Report that the court fees leviable on plaints should be nominal. We do not suggest that no court fee need be levied at all. By the establishment of nyaya panchayats a litigant in the village is saved the expenses of travelling, of stay in a district or tehsil headquarters during the pendency of his case, expenses in connection with legal practitioners and the like and therefore he does not grudge the payment of a small fee for the amenities thus provided. We have not also received any complaint in relation to the fee which is leviable at present in most of the States in respect of such matters. The court fee can, however, be slightly higher when larger amounts are involved. For example, the court fees can be—

Rs. nP.

on suits upto Rs. 50	0.50
on suits from Rs. 51 to 100	2.00
on suits from Rs. 101 to 200	3.00
on suits from Rs. 201 to 300	5.00
on suits from Rs. 301 to 400	7.50
on suits from Rs. 401 to 500	10.00

The process fee should also be nominal. In the case of complaints and other miscellaneous petitions the fee leviable should not exceed Rs. 1/-.

Appearance  
of legal  
practitioners.

9. Except in certain parts of Kerala, the panchas are unanimously of the view that no legal practitioner should be allowed to appear before them. They pointed out quite frankly that to allow legal practitioners to appear before them would only tend to create confusion. They argue that facts and issues which to their untrained but

common sense eyes present no difficulties would assume a totally different appearance when presented to them through the skilful hands of a trained practitioner in law. Some of the remarks which the villagers made in this connection were somewhat uncharitable to the profession but viewed in their proper perspective they are not likely to be misunderstood. Again, the kind of simple and natural justice which the villager expects from these tribunals would become technical, complicated and expensive if lawyers are allowed to intervene. We are glad to note that this view is shared by almost all the witnesses who gave evidence before us and also by the many High Court Judges with whom we had the privilege of discussing many matters concerning the functioning of nyaya panchayats. A few persons, themselves legal practitioners, felt that to bar their appearance before these tribunals would be to deprive them of some amount of professional work, but the number of such witnesses has been infinitesimally small and the profession as a whole, if we may be permitted to say so, has taken the correct attitude that it is neither necessary nor desirable that legal practitioners should appear before these tribunals. The few exceptions in Kerala, referred to at the beginning of this paragraph, are due to the fact that the presiding officers of the nyaya panchayats who put forward this view happened to be advocates themselves. In this connection we must record that in Kerala we found lawyer's clerks or gumasthas appearing before nyaya panchayats in the guise of agents of one or the other of the parties and arguing cases in much the same manner as lawyers do in a court of law, raising legal issues, citing authorities and so on. These gumasthas or clerks are professional "agents" as is ordinarily understood under the Panchayat Acts.<sup>1</sup> We do not think that this is the kind of panchayat tribunal we are contemplating. In our opinion the very purpose of these courts, namely, the ready and common sense administration of justice without regard to technicalities would be defeated if legal practitioners are allowed to appear before them in any form.

10. Another matter to which our special attention has been drawn by many sarpanchas and others has been that if the decrees and orders of nyaya panchayats are not rendered capable of quick execution much of their utility would disappear and in addition their prestige would considerably suffer. At present in most of the States there is no machinery available to the nyaya panchayats for execution and decrees and orders have to be transferred to the regular courts for the purpose. Once the matter gets into the hands of the court, it is said that the decrees and orders

Execution.

<sup>10</sup>. One of the reasons why the Kerala Law Minister was not disinclined to allow lawyers to appear was that there by the bane of the hardened litigant appearing as an agent and preventing compromises would disappear.

become subject to the usual delays associated with the regular courts. There is a good deal of force in these observations. On the other hand, we should not be unmindful of the very weighty observation made by no less a person than the Chief Minister of Maharashtra that the equilibrium which one may expect a member of nyaya panchayat to maintain in the trial of suits and criminal proceedings may not always be continued during the time of execution. In addition, the funds at the disposal of nyaya panchayats being so limited, a separate machinery for execution may be difficult to establish. Wherever there is some such machinery as in West Bengal, the dafadars and chowkidars employed for the purpose complained bitterly about the meagre emoluments they were receiving. Powers of execution would mean that nyaya panchayats will have to dispose of matters relating to objections to attachment, sale of property and the like based on all possible grounds; they will also have to familiarise themselves with the procedure for attachment, sale, etc. In fairness to nyaya panchayats it must be pointed out that many of them do not want to be saddled with these additional burdens if some suitable machinery could be devised for speedy execution, for example, by the appointment at a suitable level of a special officer (Nazir). We have given very anxious consideration to this question. At one stage we were inclined to the view that all decrees and orders remaining unsatisfied after the prescribed period should be transferred to the Collector for execution who may follow the land revenue recovery procedure for this purpose and that it is not necessary to vest any powers of execution in the nyaya panchayats themselves. We do not, of course, recommend execution through the courts in view of the delays involved. On further consideration we are inclined to the view that as the amounts involved are seldom large, and, more particularly, as this step has already been taken in quite a few States, a simple power to distrain and sell movable property may be vested in nyaya panchayats with the usual safeguard that non-attachable property should not be distrained. Similarly, in respect of the delivery of specific movable property, provision may be made for the seizure and delivery of the subject-matter of the decree. Such power postulates the existence of some simple machinery capable of discharging the necessary duties. Failing satisfaction by this method the decree or order may be transferred, on a certificate by the nyaya panchayat, to the Collector for execution and the procedure to be followed may be the land revenue recovery procedure with which the office of the Collector is so familiar.

Maintenance  
and custody  
of records.

11. Although in certain parts of the country the manner in which records are kept is susceptible of improvement, by and large we have found that records are being maintained in a fairly satisfactory manner. The diaries are generally posted with care, proceedings are recorded in a fairly satisfactory manner and there appears to be no room for any

serious complaint in this behalf. This state of affairs reflects greater credit on nyaya panchayats when as a matter of fact, there has been no regular inspection of their work at all or whatever inspection there was has been sporadic and perfunctory. The only serious allegation made in this connection in some quarters has been that in a few cases where the regular courts had been moved to transfer pending cases the nyaya panchayats concerned had ante-dated their decisions in order to give the impression that at the time of transfer the cases had already been decided. In order to ensure that as far as possible records are properly kept and tampering with them rendered difficult, we suggest that printed forms are prescribed for the various types of records to be kept, that the case proceedings are paged consecutively and in such a way that as little blank space is left between the statement of one witness and another or between the proceedings of one day and another, that a separate register in the prescribed form is maintained in which the work done on each day by the nyaya panchayat is briefly indicated (this could be done by the panchayat secretary) and that prescribed returns are sent to an authority specified for the purpose, preferably a judicial authority. Each case record should be complete in itself so that if the case is called up by a higher judicial authority it could be sent in a convenient form. All the records after the expiry of a specified period should be consigned to the prescribed authority, preferably a judicial authority. The records while in the custody of nyaya panchayats should be under lock and key and the keys should be only in the possession of the sarpanch or the secretary. Access to the records should be strictly regulated by rules. Inspection of nyaya panchayats should be regular and at frequent intervals.

न्यायपंचायत

## CHAPTER XII

### SECRETARIAL ASSISTANCE

1. To facilitate the work of nyaya panchas, it is necessary to provide them with proper secretarial assistance. There are many functions of a purely clerical and routine nature which have to be performed in connection with the work of a nyaya panchayat. Thus several registers have to be maintained; petitions and applications of litigants have to be received, complaints have to be recorded, summons and other processes have to be issued, copies of proceedings have to be furnished, fees have to be collected and receipts issued, intricate cases may have to be referred to the regular courts and proceedings drawn up in respect thereof, returns in relation to certain matters may have to be sent up to the prescribed authorities and papers may

Need for assistance.

have to be sent up to revisional authorities. It may be convenient for the nyaya panchas to have some one who can record the evidence and take down the judgment. It would not be proper to saddle the honorary elected panchas with all these functions, and, in quite a number of cases, because of the qualifications we have proposed, nyaya panchas may find considerable difficulty in discharging these functions even if they can find the time to do so. Again, the question would arise for consideration whether, on the analogy of the English system of lay justices, it would not be desirable to give the nyaya panchas the assistance of a secretary or a clerk who, besides discharging the purely clerical functions such as those indicated earlier, would also advise the panchas on questions of law, whenever necessary.

Present  
position.

2. Before we consider the type of secretarial or clerical assistance that may be given to nyaya panchas it will be useful to state briefly the present position. In all the States, nyaya panchayats are at present provided with a secretary or a clerk. In some States, e.g., Jammu and Kashmir<sup>1</sup>, West Bengal<sup>2</sup>, Maharashtra<sup>3</sup>, Gujarat<sup>4</sup>, provision is made in the Panchayat Act itself for a secretary or clerk. In some States, e.g., Bihar<sup>5</sup>, provision for a clerk is made by rules. In other States provision is made by executive orders. Generally the office of secretary to nyaya panchayat is combined with some other office such as secretary to gram panchayat, or alternatively the same person is made to serve as secretary to a number of nyaya panchayats. As regards qualifications for appointment as secretary there is no uniformity. These range from "vernacular pass", to "matriculation pass", though we have come across a few graduates working as secretaries. In no State is any legal qualification prescribed, though in Bihar and Uttar Pradesh some training in law is provided for secretaries. Except in Uttar Pradesh (Bakshi-ka-Talab training centre) and Bihar (Brambe training institute) there would appear to be no systematic arrangements for training secretaries. There is considerable divergence as to the method of appointment of clerks ranging from selection on the basis of a competitive examination conducted by the State Public Service Commission in Kerala to appointment by the local panchayat in some States. In most of the States they are not government servants. Except in a few States such as Delhi, their remuneration is pitifully low, namely Rs. 35/- a month. It is thus clear that the present arrangements in regard to secretaries are at best of a make-shift nature and hardly satisfactory.

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<sup>1</sup> Jammu and Kashmir Village Panchayats Act, 1958, section 68.

<sup>2</sup> West Bengal Panchayat Act, 1956, s. 70 (7)

<sup>3</sup> Bombay Village Panchayats Act, 1959, s. 69.

<sup>4</sup> Gujarat Panchayat Act, 1961, section 223.

<sup>5</sup> Bihar Gram Cutcherry Rules, 1949, rule 17.



3. In our opinion, it is necessary for the orderly functioning of nyaya panchayats to build up the institution of panchayat secretaries on proper lines. In a system of elected nyaya panchas, panchas come and go and there is need for an agency which would impart to the nyaya panchayats a touch of continuity. The secretaries will have to discharge this function. Besides, one of the most vulnerable sources of corruption of nyaya panchayats is the secretary as he has access to the records and as he has the potentiality to make himself indispensable to the nyaya panchas in various ways. On the other hand, he can play a vital role in making nyaya panchayats a success by displaying thoroughness, efficiency and integrity in maintaining the records and by rendering the work of panchas easier by putting them as it were on the right track on the basis of his accumulated experience. The secretary has indeed a delicate role to discharge and for this reason the best men should be attracted to this office and care must be taken to see that they remain above board.

Need for an efficient institution of panchayat secretaries.

4. The first question that arises in relation to the problem of providing nyaya panchayats with efficient secretaries is as to what qualifications should be prescribed. The qualifications have no doubt to be fixed consistently with the type of work secretaries have to do. If they are to assist nyaya panchas on points of law on the same lines as clerks of justices of the peace do in England, some legal qualifications may be desirable.<sup>1</sup> In view of the nature of the institution, the limited jurisdiction, the simplified procedure and the comprehensive scheme of training we envisage for nyaya panchas, we are of opinion that there is no need for any secretary with legal qualifications. Besides, villagers all over the country have so much dread and distrust for men with legal qualifications that there is every likelihood of their not feeling at home in a panchayat with a legally qualified secretary. Not only that, there is every possibility of either the legally qualified secretary getting the upper hand over the nyaya panchas and running the court himself or coming into clash with the nyaya panchas. Nor would the expenditure in having legally qualified secretaries be inconsiderable. Thus viewed from any point of view there is no justification for having legally qualified secretaries. The secretaries will have to be entrusted with only the purely clerical duties. But even for discharging these duties efficiently they must have ability to read and write well. In the present day standards of education, we cannot ordinarily expect such an ability from one who has not passed the matriculation or an equivalent examination. We therefore recommend that a person should not be appointed as Secretary unless he possesses such a qualification. As an alternative to such a qualification the expedient of holding a competitive examination of a similar

Qualifications.

<sup>1</sup> In fact, a view was put forward before us that it would be advantageous to provide nyaya panchayats with legal advisers, somewhat on the lines of judge-advocates.

standard may also be tried. It may be that on the basis of the experience of a candidate some deviations from the qualification we have suggested may be made.

Conditions  
of service.

5. To attract the best men possessing the qualifications we have suggested, it is necessary to make the conditions of service of secretaries sufficiently attractive. A permanent cadre of secretaries should be constituted. They must be appointed by government and made liable to transfer from one panchayat area to another. They must be fitted into some department such as the State Panchayat Department or the Judicial Administration Department. They must have chances of promotion to higher posts in these departments in the same manner as officers with similar qualifications and like scales of pay. As an incentive to their serving in the villages some special allowance may be given to them in addition to what people with similar qualifications draw in State Government departments. The details could be worked out by the State Governments on the lines suggested above.

Control over  
secretaries.

6. In a system of secretaries appointed by government and paid by government, it is necessary to provide safeguards to ensure that the secretary does not become insubordinate to the nyaya panchas whom he has to serve. This can be achieved best by giving powers to nyaya panchas to make reports and recommendations, if necessary, against a recalcitrant secretary for necessary action. Besides, the nyaya panchas may be empowered, in addition to the regional supervising officer, to write the confidential reports on the work of the secretary. A diary of the work done by the secretary may be maintained by the nyaya panchayat which he is for the time being serving.

Training.

7. In order to ensure that secretaries discharge their functions efficiently it will be necessary to give them some training. The training should be correlated to their functions. They must be familiar with the law to be administered by nyaya panchayats and the procedure to be followed by them in the disposal of cases. Lectures may be arranged and practical work may be set and examinations may be held in theory and practice at the end of the training. Periodical refresher courses should also be arranged. During the training period some lectures could usefully be arranged on professional ethics dealing with the relationship of secretaries to the panchas and the public.

Practical  
difficulties  
in having a  
separate  
secretary  
for each  
nyaya  
panchayat.

8. In conclusion we would like to comment on certain practical difficulties experienced in having a separate secretary for each nyaya panchayat. We have mentioned in another context that the average number of cases decided by a nyaya panchayat works out to not more than forty a year.<sup>1</sup> In other words, the work load does not ordinarily justify a separate secretary for each nyaya panchayat. In

<sup>1</sup> See ante Chapter X, paragraph 5.4.

that case we see no objection to there being one secretary for two or three nyaya panchayats. The work of the various nyaya panchayats may be arranged in such a way that the secretary moves in rotation and attends to the work in the respective nyaya panchayats as and when necessary. There may, however, be situations where by reason of distances it may not be practicable to group a sufficient number of nyaya panchayats to keep the secretary fully engaged. In such cases, the secretary may be entrusted with the work of gram panchayats. But we are of opinion that as far as possible, the secretary's work should be so arranged that it is restricted to that of nyaya panchayats only. This will enable him to maintain the aloofness which his office requires while facilitating the utilisation of his specialised training in the best way.

9. We believe that the proposals we have made in regard to secretaries will, if acted upon, go a long way towards a more efficient and orderly working of nyaya panchayats. Conclusion.

## CHAPTER XIII

### SUPERVISION AND CONTROL

1. Section 111 of the Kerala Village Courts Act, 1960, provides for the appointment of an officer not below the rank of a sub-judge to be the Registrar of Village Courts to exercise administrative control over nyaya panchayats and his functions and duties are to be defined by rules made under the Act. The Registrar, if one has been appointed, or the Munsif, where no Registrar has been appointed, is expected to exercise powers of supervision and inspection over nyaya panchayats. Other Acts like the West Bengal Panchayats Act, 1956, give wide powers of inspection to the district judge, the district magistrate, the sub-divisional magistrate and the munsif to inspect the records of any proceedings maintained by nyaya panchayats. These provisions are very salutary, but in actual practice, very little is being done by way of regular inspection in most of the States. In some States, the work of inspection is entrusted to panchayat officers who have no legal training and who are really expected to devote the greater part of their time and attention (perhaps quite rightly) to the working of gram panchayats. We have examined a number of panchayat officers and they have frankly admitted that apart from a perfunctory examination of nyaya panchayat records designed to secure that the relevant rules are duly complied with, they have not paid much attention to the actual working of nyaya panchayats. In other cases, all that is requir-

Administra-  
tive  
supervision.

ed at the present moment is for the panchayat president to produce his records for inspection before the district munsif or the sub-divisional magistrate and for want of time or for some other reason the records are seldom looked into. Here and there we found a young and energetic munsif taking pains over the work of inspection, but such cases have been very rare. On the materials before us we have necessarily to come to the conclusion that this aspect of the matter has been sadly neglected. In our opinion, inspection of nyaya panchayats should not consist of a mere routine inspection to ensure that rules regarding the maintenance of registers and the like are complied with. The inspecting officer should be able on occasions to act as a guide, philosopher and friend to nyaya panchayats. It would be interesting to record in this connection that there have been suggestions from certain nyaya panchayats for the appointment of a legally qualified man as a kind of judge-advocate for the assistance of the tribunals. In our opinion the best solution seems to be the appointment of special officers. Apart from exercising powers of inspection and control, as mentioned by us in the Chapter on Training, these officers can be utilised for imparting training to nyaya panchas. For some years to come, nyaya panchayats have to be carefully nurtured and any money spent on such special officers would not have been spent in vain. Ordinarily, the correct step would have been to entrust the work of control and supervision to the High Court to be exercised by it in such manner as it thinks fit, but it is quite conceivable that the High Court may not be able to spare any judicial officer for the purpose without strengthening the subordinate judiciary in this behalf. Even then a special officer whose whole time would be devoted to the training and supervision of nyaya panchayats would be better suited to the circumstances of the present situation than a judicial officer who cannot be expected, with any justification, to devote more than a little part of his time to this work. We would, however, recommend that a flexible provision may be made in the law so that it would be open to the government to appoint in consultation with the High Court a judicial officer or a special officer, as the case may be, for the purpose.

#### Administrative control.

2.1. In order to ensure that panchas act honestly and fairly in the discharge of their duties, certain powers of control should be vested in a suitable authority. The common complaints against nyaya panchas are partiality, corruption, partisanship, frequent absences from sittings due to a reluctance on the part of the panch concerned to be associated with the decision of a particular case. Of late a fear has also come to be expressed that party interests may also produce their own reactions in the functioning of nyaya panchayats. We have said elsewhere that for a nyaya panchayat of the type contemplated by us, elections are the only method for choosing the members; albeit through indirect elections for the time being. We have also

discussed the question as to whether it would be possible to eliminate elections being fought on party lines. In our opinion, association with a party or a communal or caste organisation should not *per se* disqualify a person. But where the association is of such a nature that the confidence of the public is likely to be shaken or that it otherwise renders him unfit for the discharge of his duties as a panch, he should be liable for removal. A provision of this nature should suffice for indirectly eliminating political and other similar influences playing a part in elections to nyaya panchayats. We would therefore recommend that a suitable authority should be vested with the power to remove any panch if he is found on enquiry to be guilty of misconduct, or to be remiss in the discharge of his duties or to be actively associated with any political party or with any religious, racial, language, caste or communal group so as to render his continuance in office undesirable.

2.2. The law should also contain provisions for the removal of panchas on the ground of any disqualification which they may have incurred or of infirmity. A nyaya panchayat may be superseded as a body if it is not found to be acting judicially in the performance of its duties.

2.3. Such powers of removal or supersession should ordinarily be vested in a judicial authority in order to avoid the criticism that a panch or panchayat is being removed or superseded, as the case may be, because he or it did not find favour with the executive. On the other hand, in order to expedite matters and to avoid delays in the conduct of enquiries, it may be advantageous to vest these powers in a specified executive authority like the Collector. That authority will also have to take action if required to do so by a judicial officer who in the course of the hearing of any case is of opinion that the panch concerned has been guilty of misconduct. The law should also ensure that there is a right of appeal provided against orders of removal.

3. Incidentally, we may refer to a suggestion made in some quarters that persons electing nyaya panchas should have the right to get them recalled if their conduct has not been satisfactory. In our opinion, such a power is capable of being abused easily, and is really not called for. Under the system of rotation we have suggested there is every chance of undesirable elements getting weeded out in the ordinary course, assuming that they have not been removed from office earlier by the appropriate authority either *suo moto* or on being moved in that behalf.

4.1. There is no doubt that decisions of nyaya panchayats should be capable of being tested in a court of law and the first question for consideration is whether such tests should be carried out through appeals or revisions. A right of appeal would appear to be ruled out on the face of it for

Recall of  
nyaya  
panchas.

Judicial  
supervision,  
appeal and  
revision.

several reasons. Nyaya panchayats being essentially conciliatory bodies, most of the cases coming up before them are likely to end in compromises. The cases which are within the cognisance of nyaya panchayats are expected to be simple and petty, involving no complicated issues. Further, nyaya panchayats are not and should not be expected to record the evidence in great detail. A simple procedure is prescribed to enable them to arrive at the truth in a rough and commonsense way. A right of appeal does not go well with such circumstances. In fact, the Royal Commission on Decentralisation had reported as early as 1908 that appeals should not be allowed although the regular courts might be given special revisional jurisdiction where there appears to have been a miscarriage of justice. We are glad to note that almost all the witnesses who have given evidence on the subject are agreed that there should be no right of appeal.

4.2. A suggestion which has been made in this connection requires notice. It has been said that before a matter is taken to a court of law, whether by way of appeal or revision, it would be advantageous to provide for a right of appeal to a bigger panchayat body elected by the people, say at the Samiti level. Thereafter the matter may be agitated, if necessary, before a district judge, sessions judge or some other senior judge. According to some of the panchas who put forward this suggestion, the munsif to whom revisions ordinarily lie is seldom sympathetically inclined towards the institution of nyaya panchayats with the result that the smallest mistakes made by them are magnified by him and the trained advocates who appear before him, and the institution is often held up to ridicule. An appellate body of the people, in their opinion, would be able to appreciate the functioning of nyaya panchayats better than a regular court. They have, however, no objection to a higher court exercising powers of revision because they concede that it may be necessary for a regular court to intervene at some stage or the other. Others have put forward this suggestion on its own merits.

4.3. We are convinced that such an appellate body is not likely to serve any useful purpose. It will have to decide appeals on the basis of the records before it, records which will only contain brief summaries of the evidence. No legal practitioner is expected to appear before it and the appeals would be argued by the parties themselves, if at all. The appellate body would, like the nyaya panchayat, also consist of untrained men and even if any separate training for that body is feasible, no amount of training would enable them to discharge appellate functions in the same manner and with the same advantages as a court of law. Our conviction that such a body is likely to serve no useful purpose is further strengthened, if further strengthening is necessary, by the examination of a few of the

appellate records of full benches of nyaya panchayats in the State of Bihar, where the appellate decisions are generally to the effect that the full benches have gone through the records, have heard the parties but see no reason to interfere. No doubt, appeals have been allowed in a few cases in that State, but the peculiar manner in which the appellate body is constituted is to be remembered in the context of its functions. In that State the nyaya panchayat consists of 9 panchas and cases are heard by benches of 5 panchas. The sarpanch would in most cases preside over the benches. From the decrees of these benches appeals lie to the full bench of the nyaya panchayat, that is to say, to all the 9 members, including the sarpanch and the other 4 who have heard the original proceeding. The inclusion of the panchas who formed the original bench in the full bench is said to be for the purpose of enabling the full bench to obtain explanations wherever necessary, an inclusion which by itself should be sufficient to render the right illusory in most cases.

4.4. A similar suggestion was put forward in Kashmir, but for a different reason. Under the Jammu and Kashmir Village Panchayat Act, 1958, appeals (not revisions) lie to the district or sessions court and there is only one district court or sessions court for each of the provinces of Jammu and Kashmir. Due to the distances involved, it is not possible for any one to take advantage of this provision and the right is therefore said to be as good as non-existent.

4.5. In the result, we recommend that a right by way of revision be provided against decisions of nyaya panchayats, and the revisional powers may preferably be vested on the civil side in the district judge or the sub-divisional judge or the district munsif and on the criminal side in the sessions judge or the sub-divisional magistrate, that is to say, the revisional jurisdiction may be vested in some senior judicial officer with several years' experience as the responsibility thrown on him is very great. At the same time the court in which the power is vested should be easily accessible to the applicant. In discharging its functions the revisional court has a very important duty to perform. For the successful working of nyaya panchayats and for guiding them in the performance of their duties, the revisional courts have to act as mentors and supervisors and, apart from everything else, their judgements have to be carefully written.<sup>1</sup>

5.1. The next question for consideration is the scope of such revision which necessarily has to be restrictive. Courts are, no doubt, familiar with the scope of such power but the language employed in this connection in the Nyaya

Scope of  
revisional  
powers.

<sup>1</sup> See in this connection, the observations in *Musai Bhand and Others v. Ganga Charan and the State of U.P.*, A.I.R., 1953. All 118.

Panchayat Acts varies from State to State. Under the Madras Village Courts Act, 1888, a decision of a nyaya panchayat on the civil side may be set aside on the ground of corruption, gross partiality or misconduct of the village court or of its having exercised a jurisdiction not vested in it by law or of its having otherwise acted illegally or with material irregularity or on the ground that the decree or order is clearly unjust; and on the criminal side on the ground of corruption, gross partiality or misconduct on the part of the court or on the ground that there has been a gross miscarriage of justice. Some other Acts, like the Punjab Gram Panchayat Act, 1952, restrict the scope of revision to failure of justice whether on points of fact or law, a phrase which seems to be sufficiently comprehensive. On the other hand, the Bombay Village Panchayats Act, 1958, authorises the district court or the sessions court, as the case may be, to revise or modify any decree or order if it is not satisfied as to its legality or propriety or as to the regularity of the proceedings.

5.2. We feel that if, broadly speaking, substantial justice has been done between the parties, it is not necessary for any court to interfere in revision; and in fact Judges of High Courts with whom we discussed this question generally agree with this view. Even if there be technical, procedural or other irregularities, revision is not called for if otherwise the decision is just. For example, in quite a few cases revisional jurisdiction had been exercised because nyaya panchayats had assumed jurisdiction over a matter without its having been subjected first to a process of reconciliation. This is no doubt a kind of condition precedent, but if justice has been done, is there any need to interfere merely because of this procedural irregularity? Such illustrations can easily be multiplied. Nyaya panchayats being untrained bodies, it is necessary that a court of law should be saddled with a real responsibility to see that they act correctly and to properly canalise their proceedings.<sup>1</sup> Having regard to all the above considerations, the scope of the revisional power has to be carefully defined, and several suggestions have been made to us in this behalf. While the Madras pattern recommended itself to the Judges of the Madras High Court, the Judges of the Maharashtra High Court felt that 'correctness and legality' may alone be sufficient and that it would be prudent to omit the word 'propriety' as being too wide. 'Regularity' would also be a vague expression. Others suggested the incorporation of the phraseology employed in section 115 of the Code of Civil Procedure, 1908, while a few others preferred the expression 'miscarriage of justice'—an expression suggested by the Royal Commission on Decentralisation. On the whole, we think that it would be best

<sup>1</sup> See *Marwa Manghani v. Sangham Sampat*, A.I.R. 1960, S Punjab 35



to provide that a revisional court may interfere if it is not satisfied as to the correctness, legality or propriety of any decision, sentence or order of a nyaya panchayat. This is sufficiently wide and comprehensive. At the same time, the law may expressly state that no such decree, sentence or order shall be revised or modified on the ground of some irregularity or even illegality if the court is satisfied that substantial justice has been done. The only criticism that has been made against the latter provision is that it is unnecessary and if that be the only criticism, we may actually err on the side of caution by including it.<sup>1</sup> We should also remember that under articles 226 and 227 of the Constitution, further remedies are open to an aggrieved party. The power conferred on the High Courts by these articles is very wide and will further restrain any excess by these tribunals and ensure that there is no miscarriage of justice.

6.1. All the State Acts contain a provision for the transfer of criminal cases from a nyaya panchayat to a criminal court if the facts warrant it. This provision was objected to in some quarters on the ground that it very often tends to cause unnecessary delay in the proceedings and that this power is not called for when a right of revision is always available. It is said that transfer applications are often filed on frivolous or trivial grounds. It was also stated that the number of such applications would automatically get reduced if the court is required to transfer such cases, if at all, to another nyaya panchayat in preference to a court. We feel that we cannot recommend the discontinuance of this power of transfer. Cases can easily be imagined in which it would neither be proper nor correct for a nyaya panchayat to try them and if in spite of it the nyaya panchayat insists on trying them, the aggrieved party must have a remedy. An honest nyaya panchayat can have no fear in respect of transfer applications at all. We, however, agree that the transfer may be to another nyaya panchayat or to a court at the discretion of the court. The court can also be given power to award compensation to the other party in cases where the applications are frivolous or vexatious.

Power of transfer in criminal cases.

6.2. Whenever transfer applications are filed making allegations against a nyaya panchayat or any member thereof, it is said that the procedure followed in the court is to summon the sarpanch or the member concerned and this has been made the subject-matter of grievance by some panchas. In our opinion, the procedure which may usefully be followed in this context should be the procedure followed in ordinary cases of transfer. That is to say, it is sufficient if a report is called for from the nyaya

<sup>1</sup> It was suggested that for the purpose of discouraging frivolous applications in revision, provision may be made for compensatory costs. We are not in favour of this suggestion as it may discourage even *bona fide* revision applications and does not appear to be called for at the present stage.

panchayat or the member concerned and the report may be treated as evidence in the case. It is not desirable in the interests of the smooth functioning of nyaya panchayats that any member thereof should be summoned for the purpose.

Power to  
quash civil  
proceedings.

7. Whether a provision should be made in the Nyaya Panchayat Acts for "cancelling the jurisdiction of nyaya panchayats" in respect of civil matters for just and sufficient cause, as has been done in many of the Acts, is a question that requires some special consideration. In view of the fact that all decrees and orders passed by these bodies are open to revision, and in view of the large jurisdiction vested in the High Courts and the amplitude of the other remedies open to an aggrieved person, a provision of this nature appears to be unnecessary, particularly as it may lead to avoidable delays in the disposal of cases, thereby defeating one of the main purposes behind these institutions. On the other hand, one can perhaps appreciate the other point of view which would insist on checks and counter-checks to ensure the proper running of these institutions. A solution in that case may be to provide for such checks on some grounds like apprehended miscarriage of justice, the power being vested in a senior judge like the district judge. At the same time the district judge may be vested with discretion to mulct an applicant in costs if the application is found to be false or vexatious.

Power to  
withdraw  
cases of an  
intricate  
nature.

8. Some Acts provide for the withdrawal of a case from a nyaya panchayat on the ground of its intricacy etc. While we have no objection to a provision being made for the transfer to a civil or a criminal court of a case by a nyaya panchayat on such grounds, to vest a similar power in the regular court may be to invite frivolous applications or to encourage delay and such a provision does not, in our opinion, appear to be necessary.

## CHAPTER XIV

### MATTERS INCIDENTAL TO THE PROPER WORKING OF NYAYA PANCHAYATS

Introduction.

1. Nyaya panchas in several parts of the country have impressed upon us that they are virtually a neglected lot, that they are not provided with the basic amenities such as, a convenient place to hold their sittings or adequate stationery for recording proceedings and for other purposes or requisite funds for meeting various contingencies incidental to their work. Likewise they have represented that they have not been accorded the status and courtesy due to them for the proper discharge of their functions. A

sarpanch of a nyaya panchayat in the Union Territory of Delhi summed up his complaints forcefully by saying that nyaya panchas are 'disowned' by every one and treated as though they were unwanted orphans. It is well known that the success of any institution ultimately depends upon its personnel and if the morale of the personnel is not kept up, even the best thought out system and the most elaborate safeguards would not be able to prevent the ruin of the institution. We therefore feel that it is of the utmost importance to ensure to nyaya panchas certain basic amenities and conditions of work if the institution of nyaya panchayats is to prove successful. In the following paragraphs we propose to deal with the more important of such amenities and conditions and certain incidental matters.

2. One of the basic necessities of nyaya panchayats is some accommodation exclusively reserved for them. In a number of villages we visited we found the arrangements to be of a make-shift and unsatisfactory character. In a large number of cases the gram panchayat and the nyaya panchayat were housed together in the same solitary room. In quite a few cases the accommodation was provided by one or the other of the nyaya panchas at his own expense. In some cases some rich man of the village kindly suffered the nyaya panchayat to use one of his houses or a room in one of his houses. We feel that considering the importance of keeping in safe custody the records of nyaya panchayats, the degree of aloofness which nyaya panchas have to develop and maintain, as also the need for ensuring that nyaya panchas do not have a sense of dependency or obligation to any other agency it would be necessary to provide separate accommodation for nyaya panchayats. The State Governments may ensure that necessary funds for the purpose are made available. A portion of the panchayat ghar, wherever it exists, could with advantage be placed exclusively at the disposal of the nyaya panchayat. Accommodation.

3. Secondly, it is necessary to provide nyaya panchayats with the basic equipment in the form of stationery, forms etc. Although we did receive complaints here and there on this score, on the whole, we are happy to note that the needful is being done already. But we have also come across a few exceptional cases where the nyaya panchayat obtains from the parties concerned the necessary paper and other stationery for recording evidence and issuing processes, and this is not desirable. Stationery.

4. Thirdly, it would be necessary to keep at the disposal of nyaya panchayats some funds for meeting contingencies. Contingency funds.

and other expenses, for example, travelling allowance, stationery etc. The exact details and the amounts that may be placed at their disposal may be worked out on the basis of possible needs. For this purpose the various gram panchayats may by law be required to transfer a percentage of their funds to nyaya panchayats, or alternatively the State Government may make reasonable grants for the purpose to nyaya panchayats. A suggestion has been made that the fines levied by a nyaya panchayat and the fees collected by it might be kept at its disposal to meet expenses on contingencies. We are opposed to this suggestion. Apart from the amounts being inadequate in the normal course of events, the more serious objection to the proposal would be that the need for augmenting its resources may influence the decisions of nyaya panchayats in many cases. Amounts realised by way of fees and fines should go to the gram panchayat or preferably to the government to avoid the danger we have pointed out.

Remuneration and reimbursement of expenses incurred by nyaya panchas.

5.1. All the witnesses are agreed about the need for reimbursing nyaya panchas for their out-of-pocket expenses, namely, expenses actually incurred by them for attending the sittings of the nyaya panchayat or for attending the training courses and some boarding and lodging allowance in cases where a nyaya panch has to go out of his village and stay elsewhere in connection with his duties. A few nyaya panchas have also suggested that they should be remunerated for their work. We have carefully considered the question and we are strongly against giving any remuneration or honorarium to nyaya panchas. Apart from the difficulty in calculating the proper remuneration and the consequential financial commitments or the likelihood of its abuse if based on working days, there is a strong reason why no remuneration should be given. The strong point of the institution is the honorary character of its personnel and this by itself engenders the confidence of the people in nyaya panchayats. A nyaya panch has to sit in judgment over his fellow villagers and this duty cannot be performed satisfactorily if he loses the respect of the community which he is bound to do if he were to be remunerated. The fact that the work of a nyaya panch involves some self-sacrifice tends to promote in no small measure the respect of villagers for nyaya panchas. We are happy to note that the vast majority of nyaya panchas whom we met expressed full agreement with this view.

5.2. The case for travelling allowance and other out-of-pocket allowances stands on a different footing. We feel that it is only reasonable that nyaya panchas should be reimbursed in respect of such expenses. It would be too much to expect a nyaya panch not only to sacrifice his

time but also incur expenditure in discharging his functions. The average villager is not prosperous enough for that even if he has the willingness to make sacrifices.

6. Apart from providing the amenities we have suggested it would be necessary to ensure to nyaya panchas the status due unto them as members of a judicial body. For this purpose they should be given the same protection as is given to subordinate judicial officers. They may also be declared as public servants for the purposes of the Indian Penal Code. Status as judicial officers.

7. Another point we would like to emphasise is the great need for an endeavour on the part of all official agencies to extend the fullest co-operation to nyaya panchas. The regular judiciary should treat them as closely connected with it and its approach should be one of sympathetic guidance and constructive criticism. The police should endeavour in every way to co-operate with nyaya panchas and assist them. Incidentally, a machinery may be devised whereby the police are also kept informed of convictions recorded by nyaya panchayats, particularly in cases of theft and the like. The officers placed in charge of panchayat administration should take a paternal interest in the problems of nyaya panchas. In this connection, we would suggest for the consideration of the Government the transfer of the administrative responsibility for the functioning of nyaya panchayats from the panchayat departments to the law departments wherever practicable. Co-operation of officials.

8. In conclusion, we would like to draw attention to the great need for collecting and disseminating correct information relating to the work done by nyaya panchayats. This would enable the public to appreciate the work done by nyaya panchas all over the country and would act as a corrective to the sophisticated distrust of nyaya panchayats on the one hand and on the other it would draw the attention of the public to the problems of nyaya panchayats and thereby facilitate their speedy solution. Not the least, it would give an edge to the work of nyaya panchas and instil in them a sense of self-respect and a keenness to discharge their duties to the best of their ability. Incidentally, we may add that by instituting a judicious system of awarding prizes to nyaya panchayats (or perhaps to individual nyaya panchas also) for good work it would be possible to enthuse the nyaya panchas to work in a spirit of healthy competition and make rapid strides in making the institution of nyaya panchayats more and more successful. Publicity and prizes.

## CHAPTER XV

## CONCLUSION

## Introduction.

1. In the course of the discussion on the Fourteenth Report of the Law Commission in the Rajya Sabha, Shri A. K. Sen, the Law Minister, observed:—

“There is no doubt that the system of justice which obtains today is too expensive for the common man. The small disputes must necessarily be left to be decided by a system of panchayat justice—call it the peoples’ court, call it the popular court, call it anything—but it would certainly be subject to such safeguards as we may devise—the only means by which for ordinary disputes in the village level the common man can be assured of a system of judicial administration which would not be too expensive for him and which would not be too dilatory for him.”<sup>1</sup>

We are now at our journey’s end, and, on the basis of the study we have made of the problem and the evidence we have recorded, we feel convinced that the Law Minister’s observation accords with the general consensus of opinion on the subject. All the villagers who appeared before us severely complained against the dilatoriness and expensiveness of the system of administration of justice by the regular courts and while showing a keen awareness of the shortcomings of nyaya panchayats familiar to them, have acclaimed the nyaya panchayat as the most appropriate institution for the settlement of most of the village disputes. The warm reception which has been extended to us in every village that we visited and by every villager whom we met, the responsible and sincere manner in which the villagers participated in the discussions on nyaya panchayats initiated by us, the record of performance of nyaya panchayats all over the country even after making due allowance for the failures and shortcomings in many cases, have all convinced us beyond doubt that the real problem now is not whether we should have nyaya panchayats but how to make them more successful and serve better the purposes for which they are intended.

Desirability  
of having a  
uniform  
system of  
nyaya  
panchayats.

2. We started our enquiry with an assumption—an assumption underlying the cabinet decision pursuant to which we were entrusted with this study—that the circumstances in the various parts of the country may not be sufficiently similar to have a uniform system of nyaya panchayats whether as to constitution or powers or as to other matters. On the other hand, we have been very much impressed by the similarity of outlook of villagers all over the country. The percentage of literacy may be much higher in a State like Kerala. The villagers may be more

<sup>1</sup>Rajya Sabha Debates, 1959, Vol. XXVII, No. 3, col. 388.

prosperous in a State like Gujarat. But the trust in democratic institutions, the desire for a simple system of cheap and effective justice untrammelled by technicalities, the faith in the panchayat institution and the determination for making it a success characterise villagers all over the country. Such a unity of outlook is, in our opinion, decisively conducive to a uniform system of panchayats all over the country. A uniform system would render possible more concerted efforts towards making the institution successful. At the same time we do not desire to be dogmatic on the subject. We have given reasons for the various recommendations we have made and we have considered in detail possible alternative views before rejecting any. In our opinion the approach may be that indicated by Lord Macaulay in relation to Indian laws in general:—

“.....Uniformity where you can have it, diversity where you must have it.....”.<sup>1</sup>

Unless, therefore, there are compelling circumstances rendering deviation from the recommendations necessary, we would commend the adoption of a uniform pattern of nyaya panchayats in all the States. As already mentioned we should not be taken to speak with any sense of finality in regard to tribal areas.<sup>2</sup>

3. Before we end, it is necessary to clarify the extent to which our recommendations may be made applicable in Union Territories. relation to Union Territories since we visited only two of the Territories, namely, Delhi and Himachal Pradesh. We have, in making the various recommendations, taken full note of the conditions obtaining in Delhi and Himachal Pradesh and we have nothing particular to add apart from what we have said earlier. As to Manipur and Tripura, the law applicable is the U.P. Panchayat Raj Act, 1947, as extended to these territories by notifications dated 26th May, 1949, and 23rd January, 1960, respectively. We were informed, in December, 1960, in the case of Manipur, and, in March 1961, in the case of Tripura, that nyaya panchayats were as yet not constituted in these territories. If the assumption of the administration that the U.P. Panchayat Raj Act, 1947, would generally suit the requirements of these territories is correct we do not see any reason why any qualifications to our recommendations are necessary in regard to these territories. As regards Andaman and Nicobar Islands, provision for nyaya panchayats has been made by a Regulation of 1961<sup>3</sup>—which is modelled on the U.P. and Delhi Panchayat Acts and therefore the observations we have made as to Manipur and Tripura will apply to this

<sup>1</sup>Cited in Whitley Stokes : Anglo Indian Codes, Vol. 1, page X.

<sup>2</sup>See Chapter VI, *ante*, paragraph 8.

<sup>3</sup>The Andaman and Nicobar Islands Gram Panchayats Regulation, 1961 (4 of 1961).

Territory as well. As regards Laccadive and Minicoy and Amindivi Islands there does not seem to be any provision as yet for setting up nyaya panchayats though in the Laccadive and Minicoy group justice seems to be administered at the village level by a body of laymen consisting of an Amin appointed by the administration and two 'Karanavans' (village elders). In view of the conditions in these Islands and the view of the administration that the area is not fit for introducing panchayats till the end of the Third Five Year Plan it would not be desirable to fetter in any way the discretion of the administration. In regard to Dadra and Nagar Haveli whose 'Varishta Panchayat' is in some respects unique in the annals of the history of panchayats and Goa, Daman and Diu, the position is rather fluid and we consider it premature to make any suggestions.

**Summary of conclusions.** Our main conclusions in regard to nyaya panchayats may be summarised as follows:—

(1) Nyaya panchayats are of respectable antiquity and their success in the past is a clear indication that by reviving and moulding them on the right lines we will be taking a much needed step in the direction of making law and administration of justice reflect the spirit of the people and become rooted once again in the people.

(2) A study of the participation of laymen in the administration of justice in some of the leading countries of the world clearly reveals that with appropriate safeguards, it would not be difficult to make any institution of lay-judges successful, if the need for it is there.

(3) The process of democratic decentralisation envisaged by article 40 of the Constitution and already ushered in to some extent has resulted in the general awakening of the people in the villages, and it is clear that given proper guidance panchayat institutions can be successfully worked.

(4) Nyaya panchayats, wherever they are in existence, are serving a real felt need of the villages by disposing of cases more expeditiously and with minimum of inconvenience and expenses to parties. Although some of the criticisms directed against the nyaya panchayats may be justified, it is possible by suitable safeguards to remove the basis for any such criticisms.

(5) The vesting of judicial functions in gram panchayats charged with executive functions is neither necessary nor desirable, and the principle of separation



of the executive from the judiciary should hold good at the village level also.

(6) To avoid the baneful effects of factions, unhealthy rivalries etc., a nyaya panchayat may be set up for a group of villages, and the grouping may be made having regard to factors like area, population, contiguity, compactness, means of communication etc. Where in view of the size and population of the village a separate nyaya panchayat has to be set up for a single village, the device of splitting up the village into a number of wards can be adopted.

(7) As to method of constitution of nyaya panchayats, the system of nomination in any form has to be ruled out. Villagers must be given a free hand and the choice lies between the system of direct elections and indirect elections. The method of indirect elections seems to afford for the time being the best solution and of the various possible methods of indirect elections, the best seems to be the type in which each of the gram panchayats in the nyaya panchayat circle elects a specified number of persons to serve on the nyaya panchayat.

(8) It is not desirable to allow the same person to serve on both the gram panchayat and the nyaya panchayat.

(9) All *bona fide* attempts to secure unanimity in the choice of personnel to serve on panchayats deserve encouragement.

(10) The chairman of a nyaya panchayat should be left to be elected by the members of that body from amongst themselves.

(11) In order to provide for continuity, the terms of office of nyaya panchas should be staggered.

(12) It would be extremely desirable to associate women in the trial of cases by nyaya panchayats and provision should be made for the cooption of at least two women if in the ordinary process of election they do not find a place therein.

(13) It is necessary to make provision for the cooption of members of scheduled castes to serve on nyaya panchayats so long as they require special protection under the Constitution.

(14) A minimum age of 30 years and ability to read and write the regional language fairly fluently may be prescribed as qualifications for a person to be

eligible to serve as a nyaya panch. No property qualification need be prescribed. Relaxations of this minimum qualification may be necessary in backward areas.

(15) To ensure the successful functioning of nyaya panchayats, it is essential that the panchas should be properly trained. A training programme centering around a comprehensive but easily understandable manual and consisting of an initial training course followed up by refresher courses and supplemented by radio programmes and periodical literature will serve the purpose. For getting the best results all efforts in relation to training programmes may be made on an all-India basis.

(16) The jurisdiction of nyaya panchayats should be exclusive.

(17) The civil jurisdiction of nyaya panchayats may be confined to simple money and other suits of the type mentioned in paragraph 2 of Chapter IX.

(18) The upper pecuniary limit of civil jurisdiction may be Rs. 250 which may go up to Rs. 500 if parties consent. Power may be taken to enhance these limits from Rs. 250 to Rs. 500 and from Rs. 500 to Rs. 1,000 respectively.

(19) It would not be correct to vest unlimited jurisdiction in nyaya panchayats to decide suits merely because parties consent thereto.

(20) The time for conferring jurisdiction in relation to matrimonial causes is yet to come, but nyaya panchayats may be utilised for making reports to magistrates making inquiries under section 488 Cr. P.C. as to the amount of maintenance which may be made payable.

(21) Nyaya panchayats may be given criminal jurisdiction in respect of petty matters where the punishment in the form of a fine would be an adequate corrective. (See Chapter IX paragraphs 13, 14 and 15 for list of offences in respect of which jurisdiction may be conferred).

(22) Nyaya panchayats may be empowered to inflict fines up to Rs. 50. The maximum limit of Rs. 50 may be increased to Rs. 100 if any State Government feels justified in doing so. Nyaya panchayats should, however, not be given power to award imprisonment either substantively or in default of payment of fine.

(23) It is neither necessary nor desirable to confer on nyaya panchayats powers to issue prohibitory orders (for example, under section 144 of the Cr. P.C.)

or powers to demand security for keeping the peace or for good behaviour etc.

(24) Grading of nyaya panchayats for the purpose of conferring enhanced powers on certain nyaya panchayats is not called for and may result in undesirable consequences.

(25) It would not be wise to vest any revenue jurisdiction in nyaya panchayats though the services of nyaya panchayats may be utilised by the concerned officials on an informal basis for getting reports as to questions of succession and transfers which have taken place in the village.

(26) The importance of conciliation as a method of settling village disputes cannot be over emphasised and every endeavour should be made by a nyaya panchayat to bring about amicable settlement between the parties before taking up a case for adjudication.

(27) There is no case for a separate body for effecting conciliation and the method and manner of bringing about conciliation may be left to the discretion of nyaya panchayats according to the circumstances of each case.

(28) The categories of disputes which may be settled by conciliation should be co-extensive with those falling within the jurisdiction of the nyaya panchayats.

(29) Nyaya panchayats should not be bound by the procedural codes or the Indian Evidence Act. Nyaya panchayat procedure should be of a simple character; but care should be taken to see that principles of natural justice are complied with.

(30) The Limitation Act may not be made applicable to nyaya panchayats and a period of three years in respect of civil matters and one year in respect of offences may be prescribed as the periods of limitation in respect of matters within the jurisdiction of nyaya panchayats.

(31) In the disposal of any proceeding before it by a bench of nyaya panchayat care should be taken to see that the bench includes at least one member from the village in which the plaintiff or complainant resides and one from the village in which the defendant or accused resides; and where both parties reside in the same village, at least one member from that village.

(32) A brief record of evidence of each of the witnesses appearing in a proceeding should be kept by the nyaya panchayat and judgments of nyaya panchayats should contain reasons.

(33) No trial should be conducted in the absence of the accused, but suitable machinery may be provided for the production of an accused under arrest if need be with the help of the regular court.

(34) Court fees and other fees leviable by nyaya panchayats should be nominal.

(35) No legal practitioner should be allowed to appear before nyaya panchayats.

(36) As to execution, a simple power to distrain and sell movable property as also a power to seize and deliver specific movable property may be vested in nyaya panchayats. Failing satisfaction by these methods, a decree or order may be transferred to the collector for execution in accordance with the procedure prescribed for recovery of arrears of land revenue.

(37) Records of nyaya panchayats should be maintained properly and inspected periodically.

(38) Nyaya panchayats may be provided with secretarial assistance for the discharge of functions of a purely clerical and routine nature. Depending upon the work-load, there may be one secretary for one, two or three nyaya panchayats. The secretary need not possess legal qualifications but he must ordinarily be a matriculate and he must be given proper training.

(39) A separate cadre of panchayat secretaries may be organised in each State and they may be fitted into some Government department and given reasonable chances of promotion to higher posts. Disciplinary powers over secretaries may be exercised by the Government either *suo moto* or on reports of nyaya panchayats.

(40) Special officers, or specified judicial officers may be appointed in consultation with the High Court wherever necessary, to supervise and guide the work of nyaya panchayats.

(41) Power to remove any panch on the ground of any disqualification, particularly active association with any political party or with any religious, regional, language, caste or communal group as also the power to dissolve any nyaya panchayat found to be not acting judicially may be vested in an appropriate authority. Provision may be made for appeals against such orders in suitable cases.

(42) It is not necessary to make any provision for appeals from the decisions of nyaya panchayats.

(43) Revision should lie from the decisions of nyaya panchayats to a senior judicial officer. The revisional authority may interfere only if he is not

satisfied as to the correctness, legality or propriety of the decision and should refrain from interfering if he is satisfied that substantial justice has been done.

(44) It is necessary to make provision for the transfer of criminal cases from one nyaya panchayat to another or to a court and in hearing petitions for transfer, courts should not summon any nyaya panch as a witness though they may call for a report from the nyaya panchayat.

(45) Power to quash civil proceedings before a nyaya panchayat may be allowed, if at all, only on serious grounds like apprehended miscarriage of justice and should be exercisable only by a senior judicial officer such as a district judge who should have the power to mulct an applicant in costs if the application for quashing a proceeding is found to be false, frivolous or vexatious.

(46) Courts may not be empowered to withdraw cases from nyaya panchayats, but nyaya panchayats may be permitted to transfer a case to a civil or criminal court on the ground of its intricacy etc.

(47) Nyaya panchayats should be provided with the basic necessities such as a convenient place to hold sittings, requisite stationery, contingency funds etc.

(48) No salary or remuneration may be paid to nyaya panchas, but they should be reimbursed in respect of travelling and other out-of-pocket expenses.

(49) Nyaya panchas should be accorded the status and protection due to them as members of a judicial body and should be treated as 'public servants'. All official agencies, particularly police, should extend the fullest co-operation to them.

(50) There is great need for collecting and disseminating information relating to the work done by nyaya panchayats.

(51) Devices such as awarding prizes to nyaya panchayats or individual nyaya panchas may be adopted to enthuse the nyaya panchayats to work in a spirit of healthy competition.

(52) There should be no difficulty in adopting a uniform pattern of nyaya panchayats in all the States.

5. We have appended to this Report a Bill incorporating the recommendations which we have made in this Report. In our opinion, it may be advantageous to keep the law relating to nyaya panchayats separate from the Gram Panchayat Acts. An endeavour has been made to draft the Bill in simple and easily understandable language. We

would commend the Bill to the States with the hope that it would serve as a model for such legislation as they may wish to undertake on the subject.

1. G. R. RAJAGOPAUL

*Chairman.*

2. L. M. NADKARNI

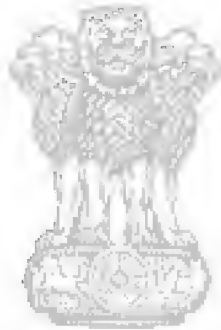
3. A. PRAKASH

}

*Members.*

NEW DELHI;

*Dated the 30th April, 1962.*



सत्यमेव जयते

## APPENDIX I

### THE NYAYA PANCHAYATS BILL, 1962

A

#### BILL

*to provide for the disposal of simple cases in rural areas by nyaya panchayats constituted and organised from among themselves by members of the village community.*

#### CHAPTER I

##### PRELIMINARY

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Nyaya Panchayats Act, 1962.<sup>1</sup>

(2) It extends to the whole of the State except such areas as are for the time being within the local limits of the jurisdiction of a municipal corporation, municipality, town or notified area committee or cantonment board established under any law for the time being in force.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different areas.

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<sup>1</sup>Courts to be established under the law may be called nyaya panchayats for the sake of uniformity. Both "nyaya" and "panchayat" are expressions well understood all over the country. The word "nyaya" is of great significance in the context of administration of justice and the expression "panchayat" sufficiently emphasises the indigenous character of the institution. The name suggested has further advantages. It avoids the use of the word "court" and also any suggestion that it is a court in the regular hierarchy of courts. Hence it is preferable to expressions like "Panchayat courts", "panchayat adalats", "gram cutcherries" (an expression which seems to suggest that there is a cutcherry for every gram), "union courts", "circle courts", "peoples courts" and the like.

## Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “circle” means the circle for which a nyaya panchayat has been constituted;

(b) “court of session” means the court of session for the sessions division in which the nyaya panchayat is situate, and includes any other criminal court which may be specified by the State Government, by notification in the Official Gazette, as having the powers of a court of session under this Act.<sup>1</sup>

(c) “district court” means the principal civil court of original jurisdiction in the area in which the nyaya panchayat is situate, and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having the powers of a district court under this Act;

(d) “gram panchayat” means the panchayat constituted under any law for the time being in force for the local administration of a village, by whatever name called;

(e) “member” means a member of a nyaya panchayat;

(f) “nyaya panchayat” means the nyaya panchayat constituted for a circle under section 3;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “sarpanch” means the chairman of a nyaya panchayat;<sup>3</sup>

(i) “up-sarpanch” means the vice-chairman of a nyaya panchayat;<sup>3</sup>

(j) “village” means a village, part of a village or a group of villages for which a gram panchayat has been constituted.

<sup>1</sup>See the discussions in paragraph 4·5 of Chapter XIII. These provisions will enable the State Government to notify any civil or criminal court other than the district court and the court of session as a court having jurisdiction under this Act. The intention, however, is that senior courts will alone be so notified

<sup>3</sup>For the sake of uniformity, the expressions sarpanch and up-sarpanch are suggested for adoption. If the expressions are likely to create confusion because they are also used with reference to the sarpanch of the gram panchayat and his deputy and it is not possible to change their designations, these two may be called “nyaya sarpanch” and “nyaya up-sarpanch” respectively



## CHAPTER II

## ESTABLISHMENT AND CONSTITUTION OF NYAYA PANCHAYATS

3. (1) For the disposal of simple cases in any area to which this Act extends, the State Government may, by notification in the Official Gazette, group two or more villages into a circle and establish a nyaya panchayat for the circle. Establishment of nyaya panchayats.

(2) In grouping two or more villages into a circle, the State Government shall have regard among other matters to their contiguity, the facilities of communication available and the population involved.

(3) The nyaya panchayat shall be known by such name as may be specified in the notification.

4. (1) A nyaya panchayat shall consist of the following members, namely,— Constitution of nyaya panchayats.

\* (a) two members elected in the prescribed manner by every gram panchayat in the circle;

(b) persons co-opted by the elected members as provided in sub-section (2).

(2) The following persons shall be co-opted by the elected members to a nyaya panchayat,—

(a) two women, if no woman has been elected to the nyaya panchayat, or one woman if only one woman has been so elected;

(b) one person belonging to the scheduled castes, if no such person has been elected to the nyaya panchayat.

*Explanation.*—In this section, “scheduled castes” has the same meaning as in the Constitution.

5. If any gram panchayat fails to elect a member of a nyaya panchayat or if the elected members of a nyaya panchayat fail to co-opt a member as required by section 4, the State Government may nominate any person who is qualified to be so elected or co-opted, as the case may be, to fill the vacancy. Failure to elect or co-opt.

6. No person shall be eligible for election or co-option as a member of a nyaya panchayat unless he—

(a) has completed the age of thirty years;

Qualifications for membership of nyaya panchayat.

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\*The number “two” can be increased to three, four, etc., if the size and population of a village demand it, but it is suggested that for the better administration of justice it would be advisable to provide for equal representation of all gram panchayats in a circle rather than give weightage to any particular gram panchayat on the basis of its population. It is also suggested that every nyaya panchayat shall consist of not less than six members.

(b) is ordinarily resident, in the case of a member to be elected, within the jurisdiction of the gram panchayat electing him, and, in the case of a member to be co-opted within the jurisdiction of the circle for which a nyaya panchayat has been established;

(c) is able to read and write the language commonly in use in the circle for which the nyaya panchayat has been established.

Disquali-  
fications for  
membership.

7. (1) A person shall be disqualified for being chosen as, and for being, a member of a nyaya panchayat—

(a) if he holds any office under any gram panchayat in the circle or under the nyaya panchayat;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

(d) if he has been dismissed from service under the Government or a local authority for misconduct;

(e) if he has been sentenced by a criminal court to imprisonment for any offence involving moral turpitude, such offence not having been pardoned.

(2) If any question arises as to whether a member of a nyaya panchayat has become subject to any of the disqualifications mentioned in sub-section (1), the question shall be referred to the prescribed authority whose decision shall be final.

Vacation of  
seat.

8. (1) If a member of a nyaya panchayat—

(a) becomes subject to any of the disqualifications mentioned in sub-section (1) of section 7; or

(b) ceases to reside for the prescribed period within the jurisdiction of the gram panchayat which elected him or in the case of a co-opted member, the circle; or

(c) resigns his seat by writing under his hand addressed to the sarpanch;

his seat shall thereupon become vacant.

(2) Where a member of a gram panchayat is elected or co-opted to be a member of a nyaya panchayat, his seat in the gram panchayat shall thereupon become vacant

Term of  
office of  
members of  
nyaya pan-  
chayats.

9. (1) As nearly as possible, one-third of the members of a nyaya panchayat shall retire, as soon as may be, on the expiration of every second year in accordance with such rules as may be made in this behalf.

(2) A person retiring under the provisions of this section shall be eligible for re-election or for being co-opted again.

10. Every member shall before assuming office make Oath to be and subscribe before such authority as may be specified taken by by the State Government in this behalf an oath according members of to the form set out for the purpose in the First Schedule. nyaya panchayats.

11. (1) The members shall elect in the prescribed manner one from among themselves to be the chairman or sarpanch of the nyaya panchayat and another to be the vice-chairman or up-sarpanch. Sarpanch and up-sarpanch.

(2) If a nyaya panchayat fails to elect a sarpanch or an up-sarpanch as required by sub-section (1), the prescribed authority may appoint any of the members to be the sarpanch or up-sarpanch, as the case may be, and such person shall be deemed to have been duly elected as the sarpanch or up-sarpanch.

12. (1) The sarpanch and, in his absence, the up-sarpanch shall preside over every sitting of the nyaya panchayat. Duties of sarpanch and up-sarpanch.

(2) In the absence of the sarpanch and up-sarpanch, the sarpanch may nominate any member of the nyaya panchayat to preside over any sitting of the nyaya panchayat.

(3) The sarpanch and up-sarpanch shall perform such other functions as are specified in this Act or as may be prescribed.

13. A sarpanch or up-sarpanch—

Vacation of office of sarpanch, etc.

(a) shall vacate his office if he ceases to be a member of the nyaya panchayat;

(b) may, at any time, by writing under his hand addressed to the prescribed authority, resign his office;

(c) may be removed from office by a resolution of the nyaya panchayat passed by a majority of not less than three-fourths of the then total members of the nyaya panchayat at a meeting specially convened for the purpose.

14. Any casual vacancy among the members of a nyaya panchayat shall be filled in the same manner as a regular vacancy, but the term of office of a member so chosen shall be the residue of the term of the person in whose vacancy he has been chosen. Casual & vacancies.

15. (1) The State Government shall appoint a secretary to each nyaya panchayat, but nothing herein contained shall prevent the appointment of the same person as secretary to two or more nyaya panchayats. Secretary of a nyaya panchayat.

(2) A secretary of a nyaya panchayat shall assist the nyaya panchayat in the performance of its functions under this Act and shall perform such other functions as may be prescribed.

### CHAPTER III

#### CIVIL AND CRIMINAL JURISDICTION OF NYAYA PANCHAYATS

**Functions of a nyaya panchayat.** 16. A nyaya panchayat shall try civil and criminal cases of the nature specified in this Chapter.

#### A—Civil jurisdiction

**Suits triable by nyaya panchayats.** 17. (1) The following suits are triable by a nyaya panchayat if the amount or value thereof in each case does not exceed 250 rupees, namely:—

- (a) suits for money due on contracts;
- (b) suits for the recovery of any movable property or the value thereof;
- (c) suits for compensation for wrongfully taking or injuring any movable property;
- (d) suits for damage by cattle trespass.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette, declare that nyaya panchayats in the State or any part thereof may try all or any of the suits of the nature mentioned in that sub-section, the amount or value whereof exceeds 250 rupees, but does not exceed 500 rupees.<sup>1</sup>

**Suits which may not be tried by nyaya panchayats.** 18. Notwithstanding anything contained in section 17, the following suits are not triable by nyaya panchayats—

- (a) suits on a balance of partnership account;
- (b) suits for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;
- (c) suits for the recovery of rent of any immovable property;
- (d) suits for foreclosure, sale or redemption in the case of a mortgage of, or charge upon, immovable property or for the declaration of any other right to, or interest in, immovable property;
- (e) suits by or against minors or persons of unsound mind;

<sup>1</sup>See Chapter IX of the Report, paragraph 6.2 The pecuniary limit may be extended in the manner suggested therein in respect of suits where the parties agree to abide by the decision of nyaya panchayats.

(f) suits by or against the Central or a State Government or a local authority or a public servant in his official capacity;

(g) suits the cognizance of which by civil courts is barred under any law for the time being in force.

19. Every suit under this Act shall be instituted before the nyaya panchayat of the circle in which the defendant, or any of the defendants where there are more than one, at the time of the commencement of the suit actually and voluntarily resides or carries on business or personally works for gain. Place of suing.

20. No Nyaya panchayat shall try any spit in respect of any matter which is pending or decision in, or has been heard and decided by, another nyaya panchayat or a court of competent jurisdiction in a former suit between the same parties or those under whom they claim. Suits not to be entertained when matter in issue is pending or has been decided in another nyaya panchayat or court.

21. If in the decision of a suit it becomes necessary to decide incidentally any question as to title to any immovable property or the legal character of either of the parties to the suit or of the existence of any contract or obligation, the nyaya panchayat may decide such question, but any such decision shall not be evidence of such title, legal character, contract or obligation in any other action. Incidental determination of questions as to title to immovable property, etc., not binding in other actions.

22. Every suit of the nature referred to in section 17 instituted before a nyaya panchayat after the expiry of the period specified in respect thereof in the table below shall be dismissed although limitation has not been set up as a defence. Limitation.

TABLE

Description of suit	Period of limitation	Time from which period begins to run
1. For money due on contract	Three years . .	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	Three years . .	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring any movable property.	Three years . .	When the movable property was wrongfully taken or when injury was done to it.
*4. For damage by cattle trespass.	Three years.	When the damage was caused by the cattle trespass.

\*The three year period follows the rationalisation of the periods suggested in the Third Report of the Law Commission on the Limitation Act, 1908.

## B—Criminal jurisdiction

Offences  
cognizable  
by nyaya  
panchayats.

23. (1) The offences specified in the Second Schedule are cognizable by a nyaya panchayat if committed within the local limits of its jurisdiction.

(2) If the State Government is of opinion that any offence not specified in the Second Schedule is of such a nature that it may be tried by nyaya panchayats or that any offence so specified should cease to be triable by them, it may, by notification in the Official Gazette, amend the Second Schedule, and, with effect from the date of such notification, any offence added to, or removed from the Second Schedule shall become cognizable or, as the case may be, cease to be cognizable by nyaya panchayats.

(3) Any notification issued under sub-section (2) shall not affect the trial of any criminal proceeding pending before a nyaya panchayat on the date of the notification and such proceeding may be disposed of by the nyaya panchayat as if the notification had not been issued.

Offences  
which may  
not be tried  
by nyaya  
panchayats.

24. Notwithstanding anything contained in section 23, no nyaya panchayat shall take cognizance,—

(1) of any offence of theft punishable under section 379 of the Indian Penal Code in any case where the accused,—

(a) has been previously convicted of an offence punishable under Chapter XVII of that Code with imprisonment of either description for a term of three years or upwards; or

(b) has been previously fined by any nyaya panchayat for theft or for dishonestly receiving stolen property; or

(c) has been ordered to execute a bond for his good behaviour in proceedings instituted under section 109 or 110 of the Code of Criminal Procedure, 1898; or

(2) of any offence under the Indian Penal Code in any case where either the complainant or the accused is a public servant or a member of the nyaya panchayat.

Place  
trial. of

25. (1) Every offence shall ordinarily be enquired into and tried by the nyaya panchayat within the local limits of whose jurisdiction it was committed.

(2) Notwithstanding anything contained in sub-section (1), rules made in this behalf may provide for the determination of the jurisdiction of nyaya panchayats in cases where it is uncertain in which of several circles an offence

was committed or by which nyaya panchayat an offence is to be tried.

26. No nyaya panchayat shall try a person for an offence where he has already been tried by a court of competent jurisdiction or by another nyaya panchayat and convicted or acquitted of that offence, while such conviction or acquittal remains in force. Persons convicted or acquitted not to be tried again for the same offence.

27. Subject to the provisions of any law for the time being in force, no nyaya panchayat shall take cognizance of any offence under this Act after the expiry of one year from the date on which the offence was committed.\* Limitation for criminal proceedings.

28. A nyaya panchayat may impose on any person convicted by it of an offence cognizable by it any sentence of fine not exceeding rupees fifty, but it shall not be competent for a nyaya panchayat to impose on any person convicted by it a sentence of imprisonment, either substantially or in default of payment of fine. Limitation on powers of punishment of nyaya panchayats.

29. When any person is found guilty of an offence under this Act, the nyaya panchayat finding him guilty may, having regard to the circumstances of the case, including the nature of the offence and the character or antecedents of the offender, if it thinks it expedient to do so, instead of imposing any sentence of fine on the offender, let him off after due admonition.\*\* Power to let off offender after admonition.

30. Every offence cognizable by a nyaya panchayat shall be compoundable. Compounding of offences.

31. If a nyaya panchayat is satisfied, after such enquiry as it thinks fit to make, that a complaint brought before it is false, frivolous or vexatious, it may order the complainant to pay to the accused such compensation not exceeding rupees ten as it thinks fit. Compensation for false, frivolous or vexatious complaints.

## CHAPTER IV

### PROCEDURE

32. (1) Subject to such rules as may be made in this behalf, a nyaya panchayat may discharge its functions under this Act through benches constituted by the sarpanch from among its members, each bench consisting of not less than three members. Benches of nyaya panchayats.

\*This provision based on the Madhya Pradesh Bill may be usefully incorporated for the purpose of ensuring that petty criminal cases are disposed of quickly and where action is delayed the offence is given a decent burial in the interests of peace in the village. Some offences are no doubt cognizable but they are all of a petty nature.

\*\*This is based on section 3 of the Probation of Offenders Act, 1959. When that section covers all offences punishable upto two years, it seems to be suitable for adoption for nyaya panchayats also. The only fear may be that nyaya panchayats may resort to this section in most cases in order to ensure that they do not become unpopular. But the revisional court may act as a corrective in suitable cases.

(2) Every such bench shall, as far as practicable, include a member from the village in which each party to a proceeding before the nyaya panchayat ordinarily resides.

Procedure  
in civil and  
criminal  
cases.

33. (1) In the trial of any suit or criminal proceeding before it, the nyaya panchayat shall in general be guided by the principles of natural justice, that is to say,—

(i) if a claim is made against any person or any person is accused of any offence, that person shall be informed as soon as may be of the claim or the grounds of the accusation, as the case may be;

(ii) every such person shall be given a reasonable opportunity of being heard in the matter before any decision is arrived at.

(2) In particular, a nyaya panchayat shall—

(a) in the trial of suits, follow the procedure specified in the Third Schedule; and

(b) in the trial of offences, follow the procedure specified in the Fourth Schedule.

Disquali-  
fications for  
trying  
case.

34. (1) A member of a nyaya panchayat, who is directly and personally interested\* in any suit or criminal proceeding pending before it, shall be disqualified from trying that case.

(2) If a party to a suit or criminal proceeding before a nyaya panchayat objects to any member thereof on the ground that he is directly and personally interested in the suit or proceeding, and the member does not thereupon withdraw from the nyaya panchayat, the grounds of objection and the reasons for the continuance of the member shall be recorded.\*\*

Nyaya pan-  
chayat to  
sit in  
public.

35. The place in which a nyaya panchayat holds its sittings shall be deemed to be a place to which the public may have access.

Power of  
nyaya pan-  
chayat to  
regulate its  
own pro-  
cedure in  
certain  
matters.

36. Subject to the other provisions contained in this Act and any rules made thereunder, a nyaya panchayat shall have power to regulate its own procedure, including the fixing of the places and times of its sittings.

\* The expression "directly and personally interested" may serve to define a little more nprecisely what personal interest means.

\*\* Rather than have questions of this nature referred to a court or a prescribed authority for decision, the better course would appear to be to have the objections and answer re orded so that they can form the subject-matter for scrutiny by the revisional court when the matter goes up before it.



37. (1) In every proceeding coming before it, it shall be the duty of a nyaya panchayat in the first instance to make every endeavour to bring about an amicable settlement between the parties.

Duty of  
nyaya pan-  
chayat to  
effect settle-  
ment where-  
ever possible.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the nyaya panchayat may, for the purpose of bringing about such settlement, adjourn the proceeding and refer the matter to any person or persons nominated by the parties in this behalf with directions to report to the nyaya panchayat within a time to be specified by it as to whether a settlement can be and has been effected, and shall dispose of the proceeding conformably to such report.

38. No legal practitioner shall be permitted to appear on behalf of any party in any proceeding before a nyaya panchayat.

Legal prac-  
titioners ex-  
cluded from  
appearance.

39. Notwithstanding anything contained in section 38, a party to a proceeding may in writing authorise a servant, relation or dependent, not being a legal practitioner, to appear and plead for him before the nyaya panchayat.

Appearance  
by agent.

40. (1) When any nyaya panchayat is of opinion that any suit or criminal proceeding before it is of such a nature or is so difficult or important that it ought to be tried by a court or that the accused in the criminal proceeding ought to receive a punishment different in kind from or more severe than that which the nyaya panchayat is empowered to inflict, it shall stay the suit or criminal proceeding and refer the matter to the district court or the court of session, as the case may be, for orders.

Difficult  
cases may  
be referred  
by nyaya  
panchayats  
to district or  
sessions  
court.

(2) The district court or the court of session, after considering the case, may direct that the suit or criminal proceeding may be transferred for trial to such civil or criminal court as it may specify in this behalf, or may return the suit or criminal proceeding to the nyaya panchayat with suitable directions for trial.

41. (1) The provisions of the Code of Civil Procedure, 1908, shall not apply to any suit before a nyaya panchayat.

Certain laws  
not to apply  
to nyaya  
panchayats.

(2) The provisions of the Code of Criminal Procedure, 1898, shall not apply to any criminal proceeding before a nyaya panchayat.

(3) Nothing in the Court Fees Act, 1870, or the Indian Evidence Act, 1872, shall apply to any proceeding before a nyaya panchayat.

## CHAPTER V

## JUDICIAL CONTROL OF NYAYA PANCHAYATS

Power to transfer criminal proceedings. 42. (1) If it is made to appear to the court of session that in the interests of justice it is necessary so to do, it may on application made to it in this behalf transfer any criminal proceeding pending before a nyaya panchayat to another nyaya panchayat or to a court subordinate to it.

(2) Where any application under sub-section (1) is dismissed, the court of session may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one hundred rupees as it may consider proper in the circumstances of the case.

Revision in civil cases. 43. The district court may, at any time, on its own motion or on application made by an aggrieved person within sixty days of the passing of any decree in a civil suit by a nyaya panchayat, call for and examine the record of the case for the purpose of satisfying itself as to the correctness, legality or propriety of the decree, and may, after giving a reasonable opportunity to the parties to be heard, pass such order thereon as the district court thinks fit.

Revision in criminal cases. 44. The court of session may, at any time, on its own motion or on application made by an aggrieved person within sixty days of the passing of any order or sentence by a nyaya panchayat in a criminal case, call for and examine the record of the case for the purpose of satisfying itself as to the correctness, legality or propriety of the order or sentence and may, after giving a reasonable opportunity to the parties to be heard, pass such order thereon as the court of session thinks fit.

Decree, etc., not to be modified if substantial justice has been done. 45. Notwithstanding anything contained in section 43 or section 44, no decree, order or sentence of a nyaya panchayat shall be varied or revised merely on the ground of some irregularity or illegality, if in the opinion of the district court or, as the case may be, the court of session substantial justice has been done to the parties by the nyaya panchayat.

Power to stay further proceedings. 46. The district court or, as the case may be, the court of session may, pending the disposal of any proceeding before it under this Act direct that—

- (i) the execution of any decree be stayed; or
- (ii) further proceedings in respect of any criminal proceeding be stayed or the execution of any sentence be suspended.

47. Any order passed in revision under the provisions of this Chapter shall be final and no further application for revision or review thereof shall lie. Order in revision to be final.

48. Except as provided in this Chapter, every decree, order or sentence of a nyaya panchayat shall be final. Finality of decrees, etc. of nyaya, panchayats.

## CHAPTER VI

### MISCELLANEOUS

49. Except as provided in this Act, no civil or criminal court shall try any suit or take cognizance of any offence which is triable by a nyaya panchayat. Jurisdiction of nyaya panchayat to be exclusive.

50. (1) Any magistrate making an enquiry under section 488 of the Code of Criminal Procedure, 1898, may require from the nyaya panchayat in whose circle the wife, child, husband or parent resides, a report as to the amount of maintenance which, having regard to the circumstances of the parties, should be made payable, and such report shall be evidence in such enquiry\*. Report from nyaya panchayat in maintenance cases.

(2) No member of a nyaya panchayat shall be required to attend as a witness touching any matter on which the report itself is evidence, but the magistrate may call for a further report.

51. (1) Subject to the rules, if any, as respects quorum, a nyaya panchayat may try any civil suit or criminal proceeding notwithstanding the absence of any member. Proceeding not to be invalidated by reasons of absence of some members.

(2) No proceeding before a nyaya panchayat shall be deemed to be invalid by reason merely that all the members of the nyaya panchayat or a bench thereof, as the case may be, were not present at any hearing of the proceeding or that some of the members were not present at all the hearings.

52. Any decision of a nyaya panchayat, if it is not unanimous, shall be in accordance with the opinion of the majority, and where the members are equally divided in their opinion, the person presiding shall have a second or casting vote. Decision of nyaya panchayat to be by majority.

53. A nyaya panchayat shall have no power to cancel, revise or alter any order passed by it, but clerical and arithmetical mistakes in any order or any decree arising therefrom due to any accidental slip or omission may at any time be corrected by the nyaya panchayat either on its own motion or on the application of any of the parties. Nyaya panchayat to have no power to alter decision, etc.

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\*A provision is some times made that nyaya panchayats may be called upon to make local investigations under section 202 of the Code of Criminal Procedure, 1898. Apart from the fact that nyaya panchayats in general do not like the idea of being called upon to perform such functions, we do not think that such a provision is likely to be of much use.

Records of nyaya panchayats to be open to inspection 54. Subject to such rules as may be made in this behalf and to the payment of the prescribed fee, the records of a nyaya panchayat shall be open to inspection by, and certified copies thereof shall be given to, such persons as apply for the same.

Inspection of nyaya panchayats and training of members thereof. 55. (1) The State Government may authorise, in consultation with the High Court, any judicial officer or may appoint a special officer for the inspection of nyaya panchayats and for the purpose of guiding and training them in the performance of their duties.

(2) Any report of such judicial or special officer shall be submitted to the prescribed authority.

Application of judicial Officers' Protection Act, 1850. 56. The provisions of the Judicial Officers' Protection Act, 1850, shall apply to members of nyaya panchayats in the discharge of their official duties as they apply to judges and magistrates.

Members of nyaya panchayats, etc., to be public servants. 57. Every member of a nyaya panchayat and every person employed in the discharge of any of the duties or in the exercise of any of the powers vested in a nyaya panchayat under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Conviction by nyaya panchayat not a previous conviction for certain purposes. 58. A conviction by a nyaya panchayat under this Act shall not be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code or section 562 or section 565 of the Code of Criminal Procedure, 1898.\*

Removal of members in certain cases. 59. (1) If, in the opinion of the prescribed authority, a member—

(a) has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct; or

(b) has absented himself without lawful excuse from meetings of a nyaya panchayat so as to render his continuance in office undesirable or has otherwise neglected or refused to perform, or has become incapable of performing any of the duties as a member; or

(c) has rendered himself unfit to perform the duties of his office by reason of his active association with any political party or with any religious, racial, language, caste or communal group; or\*\*

\* Although this provision has been objected to by many nyaya panchayats it would be advisable to retain it for the time being.

\*\* Clause 59(1)(c) should suffice to insure, however indirectly it may be, that political, communal or caste considerations do not have much scope in nyaya panchayat elections.

(d) should be removed from office for any other reason in the public interest;

he may, after giving the member an opportunity of being heard and after such enquiry as he thinks fit to make, remove him from membership.

(2) Pending such enquiry, the member may be suspended from office for such period as the prescribed authority thinks fit.

(3) A member removed from office under this section shall be disqualified from being chosen as a member of any nyaya panchayat for such period as the prescribed authority may, in the order of removal or in any subsequent order, passed in this behalf specify.

60. (1) If, in the opinion of the State Government, a nyaya panchayat has abused its powers or has made a persistent default in the performance of its duties or is for any other reason unable to discharge its functions, the State Government may, after giving the nyaya panchayat an opportunity of furnishing an explanation, by order notified in the Official Gazette, dissolve the nyaya panchayat.

Power to dissolve nyaya panchayat.

(2) Where a nyaya panchayat is dissolved, all the members thereof shall, from the date of the order, be deemed to have vacated their offices.

(3) Where a nyaya panchayat is dissolved under this section, a new nyaya panchayat shall be established as soon as practicable in the manner provided in this Act.

61. The State Government may, by notification in the Official Gazette, direct that any of the powers which may be exercised by it under this Act, except the power to make rules, may also be exercised by such officer subordinate to the State Government and subject to such conditions as may be specified in the notification.

Power to delegate.

62. Notwithstanding anything contained in this Act, if the State Government is of opinion that, having regard to the conditions prevailing in any area, it is necessary or expedient so to do, it may, by notification in the Official Gazette, declare that clause (a) of sub-section (2) of section 4 or clause (c) of sub-section (1) of section 6 shall not apply thereto or shall apply thereto with such modifications as may be specified in the notification.\*

Power to modify certain provisions of Act.

63. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

\* Clause 62 is intended for areas where the standard of literacy is very low or where women may not be found in sufficient number to take part in nyaya panchayats. See the discussions in Chapter VI, paragraph 4.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(i) the manner in which any election under this Act may be held and disputes relating thereto settled;

(ii) the manner in which and the authority by which questions relating to disqualifications of members may be decided;

(iii) the manner in which members shall periodically retire and their places filled, whether by election or co-option, as the case may be;

(iv) the authority before which members shall take the oath of office, and the allowances, if any, payable to members;

(v) the manner in which the sarpanch and up-sarpanch are to be elected and their powers and duties;

(vi) the conditions of service of the secretary and other servants of a nyaya panchayat and their duties;

(vii) the determination of the jurisdiction of nyaya panchayats in cases where the scene of offence is uncertain or where the offence is a continuing one or consists of several acts;

(viii) the manner in which and the conditions subject to which benches of nyaya panchayats may be formed;

(ix) the manner in which any process issued by the nyaya panchayat may be served;

(x) the procedure to be followed by nyaya panchayats in respect of matters within their jurisdiction;

(xi) the manner in which any decree or order passed by a nyaya panchayat may be executed by way of distraint and sale and the properties exempt from distraint;

(xii) the records and registers to be maintained by nyaya panchayats and the manner in which they shall be maintained;

(xiii) the manner in which and the fees subject to the payment of which records of nyaya panchayats may be inspected and certified copies obtained;

(xiv) the manner in which the working of nyaya panchayats may be inspected and instructions or training given to members;

(xvii) any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the State Legislature makes any modification in the rule or resolves that the rule shall be annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### FORM OF OATH

I, A. B., having been elected co-opted  
nominated

faithfully and to the best of my ability, knowledge and judgment perform the duties of my office in accordance with law without fear or favour, affection or ill-will.

## OFFENCES TRIABLE BY NYAYA PANCHAYATS

### A—Offences under the Indian Penal Code

*Explanatory note:*—The entries in the first column are not intended as definitions of the offences described in the corresponding sections of the Indian Penal Code or even

as abstracts of those sections but merely as convenient references to the subject matter of the section, the number of which is given in the second column.

Offence	Section
Committing affray . . . . .	160
Absconding to avoid service of summons, notice or other proceeding . . . . .	172
Not obeying a legal order to attend at a certain place in person or by agent or departing therefrom without authority . . . . .	174
Intentionally omitting to produce a document by a person legally bound to produce or deliver such document . . . . .	175
Refusing oath when duly required to take it . . . . .	178
Being legally bound to state truth and refusing to answer questions . . . . .	179
Refusing to sign a statement when legally required to do so . . . . .	180
Defiling the water of a public spring or reservoir . . . . .	277
Making atmosphere noxious to health . . . . .	278
Causing danger, obstruction or injury in any public way or line of navigation . . . . .	283
Omitting to take order with any animal so as to guard against danger to human life or of grievous hurt from such animal . . . . .	289
Committing a public nuisance . . . . .	290
Obscene acts and songs . . . . .	294
Voluntarily causing hurt . . . . .	323
Voluntarily causing hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation . . . . .	334
Wrongfully restraining any person . . . . .	341
Assault or use of criminal force otherwise than on grave and sudden a provocation . . . . .	352
Assault or criminal force on grave provocation . . . . .	358
Theft . . . . .	379
Dishonestly receiving or retaining stolen property knowing it to be stolen . . . . .	411
Mischief, where the damage or loss caused amounts to less than Rs. 50/- . . . . .	426
Mischief by killing, poisoning, maiming or rendering useless any animal of the value of less than Rs. 50/- . . . . .	428
Criminal trespass . . . . .	447
Criminal intimidation . . . . .	506
Appearing in a public place etc. in a state of intoxication and causing annoyance to persons . . . . .	510*

*Explanation I.*—The offences specified against sections 172, 174, 175, 178, 179 and 180 shall be triable by nyaya panchayats only if they have been committed in relation to a nyaya panchayat or a gram panchayat.

*Explanation II.*—The offences specified against sections 379 and 411 shall be triable by nyaya panchayats only if the value of the stolen property does not exceed rupees fifty.

\*See the discussions in paragraph 14 of Chapter IX. Offences in respect of which it is stated that they may be included if considered necessary do not find a place in this Schedule.



*Explanation III.*—The offences specified in this list shall include abetments of, and attempts to commit, such offences.

### B—Offences under other Acts

#### Central Acts

- The Police Act, 1861, section 34.  
 The Public Gambling Act, 1867, sections 3 and 4.  
 The Cattle Trespass Act, 1871, sections 24, 26 and 27.  
 The Vaccination Act, 1880, section 22, clauses (a) and (c).

The prevention of Cruelty to Animals Act, 1960, sections 11 and 26.

#### State Acts

Here may be included Acts relating to primary education, juvenile smoking and the like.

### THE THIRD SCHEDULE

#### PROCEDURE FOR THE TRIAL OF SUITS

[See section 33 (2) (a)]

1. Any person wishing to institute a suit under this Act may make an application in that behalf in writing or orally to the sarpanch or up-sarpanch of the nyaya panchayat of the circle in which the defendant, or any of the defendants, where there are more than one, ordinarily resides or carries on business at the time of the institution of the suit. Institution of suits.

2. Where an application for the institution of a suit is made orally, the sarpanch or up-sarpanch, as the case may be, shall cause the substance of the application to be recorded without delay and get the document signed by the plaintiff. Suit instituted orally.

3. A plaintiff may relinquish any portion of his claim in order to bring his suit within the jurisdiction of the nyaya panchayat. Plaintiff may forego claim to bring suit within jurisdiction.

4. (1) In respect of every suit instituted under this Act, the following fee shall be payable:— Fees in suits.

#### TABLE OF FEES

Value of claim	Court fee to be paid
Upto Rs. 50/- . . . . .	Re. 1/-
Exceeding Rs. 50/- but not exceeding Rs. 100/- . . . . .	Rs. 2/-
Exceeding Rs. 100/- but not exceeding Rs. 200/- . . . . .	Rs. 4/-
Exceeding Rs. 200/- but not exceeding Rs. 300/- . . . . .	Rs. 6/-
Exceeding Rs. 300/- but not exceeding Rs. 400/- . . . . .	Rs. 8/-
Exceeding Rs. 400/- but not exceeding Rs. 500/- . . . . .	Rs. 10/-

(2) The fee may be paid in the form of court fee stamps, and, if court fee stamps are not available in the village where the nyaya panchayat sits, it may be paid in cash.

Registration  
of suits.

5. Every suit instituted under this Act shall be recorded without delay in a register of suits to be maintained in such form and in such manner as may be prescribed.

Suits beyond  
jurisdiction.

6. If at any time it appears to the nyaya panchayat that it has no jurisdiction to try a suit, it shall direct the plaintiff by order in writing to file his suit in the proper court.

Issue of  
summons.

7. When a suit has been duly instituted, the nyaya panchayat may cause a written summons in the prescribed form to be served on the defendant requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff to attend and produce his evidence at such time and place.

Summons  
how to be  
served.

8. Subject to the provisions contained in rule 10, every summons issued under rule 7 shall be served in such manner as may be prescribed personally on the defendant whose signature shall be taken in token of service.

Substituted  
service.

9. If the defendant cannot be found and the nyaya panchayat is satisfied that he is evading service or if he refuses to take the summons, the nyaya panchayat may order service to be made on an adult male member of his family residing with him or by affixing a copy thereof upon some conspicuous portion of the house in which he ordinarily resides.

Service when  
defendant  
is outside  
jurisdiction.

10. (1) If a defendant is at the time of the issue of the summons outside the circle for which the nyaya panchayat is established, the summons may be served by registered post addressed to the defendant at the place where the defendant for the time being resides.

(2) An acknowledgment purporting to be signed by the defendant or an endorsement by a postal employee to the effect that the defendant refused to take delivery may be deemed to be *prima facie* proof of service.

Disposal of  
suit when  
plaintiff  
fails to  
appear.

11. If the plaintiff fails to appear on the date fixed for hearing or, if in the opinion of the nyaya panchayat, he shows negligence in prosecuting his suit, the nyaya panchayat may dismiss the suit, unless the defendant admits all or any part of the claim, in which case the suit shall be decreed accordingly.

Restoration  
of suit dis-  
missed for  
default of  
plaintiff.

12. Any suit dismissed under rule 11 may, on application made by the plaintiff within fifteen days of such dismissal, and on payment of rupee one, be restored, if the plaintiff satisfies the nyaya panchayat that he was prevented by any sufficient cause from appearing or that he was not guilty of any negligence in prosecuting his suit.

13. If the defendant fails to appear and the nyaya panchayat is satisfied that he has received notice of the date fixed for the hearing or that he is intentionally evading service, the nyaya panchayat may proceed *ex parte*. Disposal of suit when defendant fails to appear.

14. (1) Any decree passed *ex parte* against a defendant may, on application made by the defendant to the nyaya panchayat by which the decree was passed within fifteen days from the date of the decree, or, when the summons was not duly served, within fifteen days from the date the defendant had knowledge of the decree, and on payment of rupee one in either case, be set aside if he satisfies the nyaya panchayat that the summons was not duly served or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, and the nyaya panchayat shall then appoint a day for proceeding with the suit. Re-opening of *ex parte* decrees.

(2) No decree shall be set aside on any such application as aforesaid unless notice thereof has been served on the opposite party.

15. A suit may be disposed of wholly or in part on the basis of an oath or by any legal agreement, settlement, compromise or satisfaction between the parties, and in any such case the nyaya panchayat shall order the agreement, settlement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith in so far as it relates to the suit. Compromise of suits.

16. Where a suit has not been disposed of under rule 15, it shall be the duty of the nyaya panchayat to try the suit as expeditiously as possible, but when, in its opinion, it is unavoidable or necessary to a just and equitable decision of the suit, it shall have power to adjourn the hearing from time to time. Suits to be disposed of expeditiously.

17. (1) At the hearing of any suit, parties shall produce their own witnesses, but for the proper disposal thereof, a nyaya panchayat may, subject to such rules as may be made under this Act, have power to issue summons, to require the attendance of any person either to give evidence or to produce a document, to enter upon any land, or to do such other act as it may consider necessary. Power to summon witnesses.

(2) Any person receiving a summons or other process shall be bound to comply with the same.

18. No woman who is not accustomed to appear in public and no person who is exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, shall be required to appear before a nyaya panchayat in person, but their statements may be obtained in such manner as may be prescribed and on payment of the prescribed fee. Exemption from personal appearance.

**Evidence to be on oath and a brief memorandum to be kept.** 19. Evidence given orally before the nyaya panchayat shall be on oath, and a brief memorandum of the substance of what each person deposes shall be written and kept as part of the record in the prescribed manner.

**Decision on suit.**

20. The nyaya panchayat shall have power to ascertain the facts of every case by all lawful means in its power, and, when all the facts have been ascertained, the parties heard and the evidence considered, the nyaya panchayat shall pass such order in writing as may seem just and equitable, and such order shall state the finding and a brief statement of the reasons therefor.

**Interest on decretal amounts and payment by instalments.**

21. In suits for money a nyaya panchayat may direct payment of interest on the sum decreed at a rate not exceeding six per cent. per annum from the date of the decree until the date of payment, and may also direct that the decretal amount be paid by instalments.

**Authentication of decrees, orders, etc.**

22. All orders and decrees shall be dated on the day on which they are passed, and the decrees and orders and all receipts and copies issued by it shall be authenticated by the nyaya panchayat in such manner as may be prescribed.

**Satisfaction or adjustment of decree to be recorded.**

23. If, on the application of the decree-holder or judgment-debtor, the nyaya panchayat, after inquiry, finds that the decree has been satisfied or adjusted, whether wholly or in part, the nyaya panchayat shall record such satisfaction or adjustment in the prescribed register.

**Execution of decrees for money.**

24. (1) If a decree for money remains unsatisfied for one month after the due date or any amount payable under it remains unpaid for one month after the date when it fell due, and the decree-holder applies to the nyaya panchayat for execution within one year from such date paying the prescribed fee, the nyaya panchayat shall recover the same by distraint and sale of the defaulter's movable property.

(2) The power of distraint and sale shall be subject to such rules as may be made with respect to properties exempt from attachment, the manner of its exercise and other matters relevant thereto.

(3) If, after such distraint and sale the amount of the decree is not fully recovered the nyaya panchayat shall certify accordingly to the Collector and on receipt of the certificate the Collector shall proceed to recover the amount in the same manner as an arrear of land revenue and remit the amount so recovered to the nyaya panchayat.

**Execution of decrees for specific movable property.**

25. If a decree for the delivery of any specific movable property remains unsatisfied for one month after the due date and the decree-holder applies to the nyaya panchayat for execution within one year from such date paying the prescribed fee, the nyaya panchayat may en-

force the decree by the actual seizure of the property and its delivery to the decree-holder or if the seizure is not practicable, have it executed by enforcing payment of the sum decreed as an alternative in the manner provided in rule 24.

## THE FOURTH SCHEDULE

### PROCEDURE FOR THE TRIAL OF OFFENCES

[See section 33 (2) (b)]

1. Any person wishing to institute a criminal proceeding before a nyaya panchayat may make a complaint orally or in writing to the sarpanch or up-sarpanch of the nyaya panchayat of the circle in which the offence has been committed. Complaints in criminal proceedings.

2. When a complaint is made orally, the sarpanch or up-sarpanch, as the case may be, shall draw up a statement recording the name of the complainant, the name of the person against whom the complaint is made, the nature of the offence and such other particulars as may be prescribed, and the signature of the complainant shall be taken thereon. Complaints made orally.

3. (1) On every complaint a fee of one rupee shall be payable. Fee on complaints.

(2) The fee may be paid in the form of court fee stamps and if court fee stamps are not available in the village where the nyaya panchayat sits, it may be paid in cash.

4. Every complaint made under this Act shall be recorded without delay in a register to be maintained in such form and in such manner as may be prescribed. Register of complaints.

5. If at any time it appears to the nyaya panchayat that it has no jurisdiction to try the offence or that there is no sufficient ground for proceeding with the complaint, it shall dismiss the complaint. Complaints beyond jurisdiction.

6. The nyaya panchayat may, after examining the complainant and after such further inquiry, if any, as it thinks fit to make, cause a written summons in the prescribed form to be served on the accused requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the complainant to attend and produce his evidence at such time and place. Issue of summons.

7. Every summons issued under rule 6 shall be served in such manner as may be prescribed personally on the accused whose signature shall be taken in token of service. Service of summons.

Dismissal  
of complaint  
for want of  
prosecution.

8. If the complainant fails to appear on the date fixed for hearing or, in the opinion of the nyaya panchayat he has shown negligence in prosecuting the complaint, the nyaya panchayat may dismiss the complaint.

Restoration  
of  
complaint.

9. If the complainant satisfies the nyaya panchayat that his absence was due to some unavoidable cause and that he could not notify the nyaya panchayat thereof in time or that he was not negligent, the nyaya panchayat may restore the proceeding, but no such restoration shall be made without giving notice to the accused if the order for dismissal had been passed after the appearance of the accused before the nyaya panchayat.

Procedure  
where  
accused  
cannot be  
found or  
fails to  
appear.

10. If the accused cannot be found or fails to appear on the date fixed for hearing, the nyaya panchayat shall report the fact to the nearest magistrate.

Magistrate  
to secure  
attendance  
of accused  
before  
nyaya  
panchayat.

11. (1) The magistrate shall thereupon issue a warrant for the arrest of the accused and shall direct, by endorsement on the warrant, that if such person executes a bond with sufficient sureties for his attendance before himself in the manner provided by section 76 of the Code of Criminal Procedure, 1898, he shall be released from custody.

(2) When the accused appears before the magistrate he shall direct him to execute a bond with or without sureties to appear before the nyaya panchayat on such date as he may direct and thereafter to continue to appear before the nyaya panchayat as directed by it.

(3) On his failure to execute such bond the magistrate shall order that the accused be produced in custody before the nyaya panchayat on such date as he may direct.

Procedure  
where  
accused  
fails to  
appear even  
after  
executing  
bond.

12. If the accused fails to appear before the nyaya panchayat after executing a bond under sub-rule (2) of rule 11, the nyaya panchayat shall report the fact to the magistrate before whom the bond was executed and such magistrate shall proceed in accordance with the provisions of Chapter XLII of the Code of Criminal Procedure, 1898.

Power to  
receive  
evidence.

13. (1) When a complaint is not compounded, the nyaya panchayat shall receive such evidence as may be produced and may call for such further evidence as in its opinion may be necessary for the proper determination of the proceeding or may enter upon any land for inspection or do any other act which it may consider necessary.

(2) Any person receiving a summons or other process shall be bound to comply with the same.

(3) The provisions of rule 18 in the Third Schedule shall apply to criminal proceedings as they apply to suits.

14. (1) Evidence given orally by witnesses before the nyaya panchayat shall be on oath, and a brief memorandum of the substance of what each person deposes shall be written and kept as part of the record in the prescribed manner. Procedure in trial.

(2) The nyaya panchayat need not frame a formal charge but the plea of the accused and his statement, if any, shall be recorded, but no oath shall be administered to him.

(3) The nyaya panchayat shall have power to ascertain the facts of every case by all lawful means in its power, and when all the facts have been ascertained, the parties heard and the evidence considered, the nyaya panchayat shall record its finding, and in the case of a conviction, a brief statement of the reasons therefor and the amount of the fine imposed.

15. When a nyaya panchayat imposes a fine, it may, when passing the order, direct that the whole or any part of the fine recovered shall be applied in payment of compensation for any loss or injury caused by the offence. Power to direct payment of compensation out of fine.

16. (1) If a nyaya panchayat considers that a complaint is false and either frivolous or vexatious it may call upon the complainant to show cause why he should not pay compensation to the accused. False, frivolous or vexatious complaints.

(2) The nyaya panchayat may, after considering any cause which the complainant may show, if it is satisfied that the complaint was false, frivolous or vexatious, for reasons to be recorded, direct such compensation not exceeding fifty rupees as may be specified by the nyaya panchayat shall be paid by the complainant to the accused, and any such compensation may be recovered as if it were a fine imposed by the nyaya panchayat.

17. Where a nyaya panchayat imposes a fine and such fine is not paid as required, it shall record an order specifying the amount of the fine imposed and that it has not been paid and shall forward the same to the nearest magistrate, who shall proceed to execute it as if it were an order passed by himself, and such magistrate may sentence the accused to imprisonment in default of payment.\* Recovery of fines.

\*As power to impose a sentence of fine in default is necessary, it would be better to vest the necessary authority in the magistrate.

## APPENDIX II

## GENERAL QUESTIONNAIRE ORIGINALLY ISSUED

The Study Team would be grateful for the benefit of your views gained as a result of your experience on the working of nyaya panchayats in general, with particular reference to the following points:—

(1) Whether any qualifications should be laid down for panchas, and if so, what are those qualifications.

(2) What would be the best method of selecting panchas? Whether it should be by election (open or secret, direct or indirect) or nomination or by any other method.

(3) Whether any training should be imparted to panchas in the discharge of their judicial work and if so the nature and duration of such training.

(4) Whether any trained assistance given to panchas in the discharge of their judicial duties (whether by way of advice or by way of active participation in the functions of the nyaya panchayat or as secretary to the nyaya panchayat or in any other manner) would be of any use in the administration of justice.

(5) The nature and extent of jurisdiction that could be conferred on nyaya panchayats in civil and criminal cases and the safeguards that are necessary to prevent abuse, whether by way of administrative or judicial supervision or otherwise.

(6) Whether nyaya panchayats could be clothed with conciliatory functions and if so, the extent and nature thereof.

(7) What type of procedure could be prescribed which, while being adequate, would also be conducive to speedy, cheap and impartial justice.

(8) The steps that may be taken generally to make nyaya panchayats popular.

(9) Any other matter of special importance which in your opinion should be taken note of by the Study Team.



## DETAILED QUESTIONNAIRE SUBSEQUENTLY ISSUED

*General*

1. In one or two States (example—Punjab), the gram panchayat has been entrusted with developmental as well as judicial functions. Do you think that this is desirable from the point of view of impartial administration of justice?

2. If for any reason you think that there is no objection to (1) above, could you suggest some suitable safeguards for the purpose of ensuring that justice is properly administered and also appears to be properly administered, for example, by the appointment of a special sub-committee of the panchayat to dispose of judicial matters?

3. If you think that the two bodies should be separate, would it be necessary to have a nyaya panchayat for each village?

4. Do you think that a nyaya panchayat for each village is likely to create any unhealthy rivalry between the nyaya panchayat and the gram panchayat?

5. Would it not conduce to the better administration of justice if a nyaya panchayat is constituted for a group of villages depending upon their population, their nearness to each other, etc.?

6. Would not a nyaya panchayat for a group of villages consisting of representatives of each village command more confidence from the people in the area than a nyaya panchayat in the village itself?

7. If you have any objection to a nyaya panchayat for a group of villages on the ground that it may not have that close association with the village which is otherwise necessary, would it not be a sufficient answer to say that for the disposal of the cases arising from a particular village the panchas representing that village on the nyaya panchayat would sit on the bench and the bench may also sit in the village in which the case has arisen?

8. On the other hand, would it not be better if for ensuring impartiality and to get over the existence of factions, the panchas deciding a case may be required to belong to a neighbouring village or each party to a dispute may be asked to select his panch?

9. Do you think that the developmental activities would suffer if gram panchayats are shorn of their judicial functions which is claimed by them on the ground that such functions lend considerable dignity and prestige to them? If so, why?

### Qualifications

1. Should any qualifications be prescribed for panchas in general, or the sarpanch in particular, either on the basis of their ability to read and write or their age or in any other manner?

2. If you think no literacy qualification need be prescribed, do you think that panchas would be able to understand the documents which may be filed before them, the nature of the proceedings conducted by them, etc.?

3. Do you think that any help rendered by the secretary of the panchayat would be sufficient in this behalf and, if so, would it be a desirable state of affairs?

4. Would it not be better if some qualification like ability to read and write in the regional language should be the minimum qualification for panchas generally, or at least for the sarpanch, in particular?

5. Do you think that age should have an important part in the choosing of nyaya panchas and, if so, what should be the minimum age?

6. Apart from the qualifications generally mentioned in the relevant Acts and apart from the above two qualifications, do you think that any other qualifications should be prescribed for panchas?

### Mode of Election

1. Having regard to the fact that nyaya panchayats have to administer justice, do you think that all or any of them should be elected?

2. If they are to be elected, should it be by direct election or indirect election?

3. In some States, the sarpanch is directly elected by the people, while in other States, the sarpanch is elected by the panchas, who in turn are directly elected by the people. What are the respective merits and demerits of the two systems?

4. Where the sarpanch is directly elected by the people, it has been said that he is not able to command the confidence of the other panchas who are also directly elected by the people. Have you any observations to make?

5. Would it not be better if nyaya panchayats come into being by indirect election? For example, by the gram panchayats of 4 to 5 contiguous villages electing their representatives to the nyaya panchayat either from among themselves or from the members of the Gaon Sabha. Would it not then ensure greater impartiality?

6. If there is to be a nyaya panchayat for every village, should the election be by the whole village or should it be ward-wise?

7. If there is to be a nyaya panchayat for a group of villages, is it necessary that the villagers themselves should elect the members of the nyaya panchayat or is it sufficient that the gram panchayats in that area elect their representatives either from among themselves or from members of the Gaon Sabha?

8. What do you think of the suggestion that the sarpanchas of the gram panchayats in each specified circle automatically constitute the nyaya panchayat for that circle?

9. Do you think that it would be better if either the villagers or the gram panchayats be asked to select a panel of names from which the prescribed Governmental authority would choose members of the nyaya panchayat?

10. Whatever may be the method, would you recommend reservation of seats in the nyaya panchayat for scheduled castes and tribes, women, retired Government servants including ex-service men, who may not come in by way of election but whose association with the nyaya panchayat is either necessary or useful?

11. Have any elections of panchas in your village been fought on the basis of political rivalries or the community or caste to which the candidates belonged, or on the basis of group rivalries in the village?

12. Have you any objection to village elections being fought on political lines?

13. If you think that politics, communalism, factions, etc., should not have any place in village elections, what would be your suggestions for getting rid of such features, whether by law or by administrative measures, or otherwise?

14. Would you welcome a provision stating that no person shall be eligible for membership of a nyaya panchayat if he belongs to any political party or to a communal organization?

### *Training*

1. Do you think that some kind of training is essential for nyaya panchas for the proper discharge of their work?

2. If so, would it be sufficient if the sarpanch alone is trained or is it necessary that all panchas should be trained?

3. Have you any suggestions to make as to the kind of training which should be given, its duration, the place and manner in which it should be given, etc.?

4. Where no literacy qualifications are prescribed for panchas, would you suggest any difference in the method of training? If so, what?

5. Would it be advisable that the training, whatever its nature or duration, be so split up as to provide for some kind of initial training to be followed up by periodical or annual refresher courses?

6. It has been suggested that a special officer, preferably with a judicial background, may be appointed whose duty it will be to visit nyaya panchayats, give to panchas on-the-spot guidance, inspect their records, draw their attention to irregularities etc. What do you think of this suggestion?

7. Or, do you think that the panchayat officer is sufficient to discharge the duties contemplated in respect of the special officer? If so, do you think that the panchayat officer should have a judicial background?

8. How far would visits to law courts to watch the conduct of cases, holding of seminars, moot courts, mock-trials and the like be useful in the training of panchas?

9. In addition, would it be helpful to panchas if handbooks or manuals containing relevant provisions of the Panchayat Acts in a simple narrative form in the regional language, together with the rules and other relevant provisions of the Acts with which the panchayats are concerned, are brought out?

10. What do you think of the suggestion that a journal in the regional language may be brought out either monthly or annually giving the gist of important decisions pertaining to the administration of justice by nyaya panchayats and containing other information useful to them?

11. If panchas are to be trained in any manner, do you think that the tenure of office prescribed by the Act is sufficient or do you suggest a longer term?

12. Would it not be advisable if all panchas who are trained do not go out of office simultaneously, but retire by rotation with the result that there are always trained personnel on the nyaya panchayats?

### *Trained Assistance*

1. Do you think that nyaya panchayats require any trained assistance in the discharge of their duties?

2. Should such trained assistance be in addition to, or in substitution of, any training which may be given to the panchas themselves or any of them?

3. If trained assistance is needed, can you indicate the nature of such assistance?

4. Should such trained assistance be provided for each nyaya panchayat separately, or is it sufficient that such assistance is provided for a group of nyaya panchayats?

5. Are there panchayat secretaries in your State and if so, what are their functions in relation to nyaya panchayats?

6. Having regard to his functions, do you think that the panchayat secretary should himself have received training? If so, what should be the nature of his training and what should be his minimum qualifications?

7. Would not a highly qualified or highly trained secretary, consciously or unconsciously, exercise an undesirable influence on nyaya panchayats in the discharge of their duties?

8. If you think that a panchayat secretary is necessary, either for every nyaya panchayat or a group of nyaya panchayats, should he be an employee of the panchayat or of the Government? If he is to be an employee of the Government, how are the nyaya panchayats to exercise control over him?

9. In some States, the panchayat secretary functions as the secretary to a group of panchayats with respect to their developmental functions as well as judicial functions. Is this a satisfactory arrangement?

#### *Conciliation*

1. It has been suggested that nyaya panchayats should aim more at bringing about a settlement of disputes rather than adjudicate upon them in a formal manner like a court of law, as settlement of disputes through reconciliation minimises friction in the village and leaves no bitterness behind. Do you agree with this view?

2. If you think that bringing about reconciliation is an essential function of a nyaya panchayat, would it be advisable to entrust the same body with conciliatory functions as well as adjudicating functions?

3. In some States, reconciliation is first attempted by the gram panchayat, that is the executive wing, and it is only on the certificate of that body that efforts at reconciliation have failed that the nyaya panchayat is clothed with jurisdiction to try the dispute. What are your comments on this system?

4. What would you say to this alternative, namely that a nyaya panchayat before adjudicating upon any dispute should refer the matter to a special committee constituted by law for the purpose, for example, a samjhuta committee, or to two persons from the village to be chosen by the parties concerned and should proceed to hear the case only on the failure of this body to effect a reconciliation? Would this lead to delay or inconvenience, or would it tend to diminish the importance of the nyaya panchayat?

5. Even where a special machinery for reconciliation is provided, should it not be open to the nyaya panchayats also to bring about reconciliation, record a compromise, etc., when the cases come before them for trial?

*Jurisdiction*

1. What are the types of civil and criminal cases that nyaya panchayats may be called upon to try generally?

2. Do you think that the jurisdiction now conferred upon nyaya panchayats in respect of civil and criminal matters under your State Act is sufficient or excessive or do you think that further powers may be conferred on them?

3. Would it be advisable to confer jurisdiction on nyaya panchayats in respect of civil matters now outside their jurisdiction if the parties consent thereto? If so, would you suggest any limit for the purpose?

4. As regards criminal cases, do you think that nyaya panchayats should have power to award sentences of imprisonment?

5. Whatever be the jurisdiction conferred on nyaya panchayats in civil and criminal matters, should such jurisdiction be exclusive or should it be concurrent with that of the ordinary courts?

6. Has there been any appreciable fall in the number of cases tried by the ordinary courts as a result of the establishment of nyaya panchayats? If not, can you explain why?

7. Has the establishment of nyaya panchayats brought any relief to the villagers and are they generally satisfied with the working of these courts?

8. If there is to be a nyaya panchayat for every village or a group of villages, how are the panchas for the trial of cases to be chosen? For example, should it be left to the parties to choose the panchas, with the sarpanch presiding, or should the bench consist of the panch of the village where the dispute has arisen and one or two other panchas from other villages chosen for the purpose by the sarpanch, or should the bench consist of persons chosen by the sarpanch or by the parties from villages other than the village where the dispute has arisen, or by any other method?

*Procedure*

1. Is the simple procedure prescribed in your Act sufficient for the proper trial of cases by nyaya panchayats?

2. Would it be an advantage in the proper appreciation of law and facts if legal practitioners are allowed to appear before nyaya panchayats? It may be noted in this connection that if nyaya panchayats are to be vested with powers of arrest and imprisonment, accused persons would be entitled to be defended by legal practitioners of their own choice.

3. Is the court fee now charged in respect of cases coming before nyaya panchayats reasonable or would you suggest any modification of the same?

4. Is the procedure provided in the Act for the execution of decrees passed by nyaya panchayats satisfactory? If not, what are your suggestions in this behalf?

5. In so far as matters relating to prosecution, investigation of offences etc., are concerned, what is the relationship between the police and nyaya panchayats? Is it working satisfactorily? If not, have you any suggestions to make?

6. What are the steps taken to see that records of cases are kept properly and safely?

### *Supervision*

1. Is there any machinery for the administrative supervision of the working of nyaya panchayat? If there is any such machinery, are you satisfied with the same, or would you suggest any modification thereof?

2. Are you satisfied with the existing provisions for appeals from or revision of the decisions of nyaya panchayats?

3. Should there be a right of appeal or is it sufficient if a right of revision is provided for? Before whom should such a right be exercised?

4. It has been suggested that the right of appeal or revision may be given to a higher panchayat body, say, at the block level and from its decision a further right of revision may, if necessary, be given to the district or sessions judge. What is your comment on this suggestion?

5. Are you satisfied with the grounds on which an appeal or a revision lies under the present law from the decisions of nyaya panchayats or, do you want the grounds to be modified in any way?

6. What are the grounds on which the ordinary courts have tried to interfere with the decisions of nyaya panchayats? Does it suggest any inherent defect in the working of nyaya panchayat?

### *Steps to ensure popularity*

1. What are the steps which may be taken to make nyaya panchayats more popular?

2. Do nyaya panchayats get sufficient official recognition and publicity?


3. In what way could the relationship between the panchas and the regular hierarchy of officers be improved to the mutual advantage of both?

### APPENDIX III

#### A.—LIST OF PLACES VISITED AND PERSONS EXAMINED OR INTERVIEWED

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
17-3-61	Hazaribagh	<b>BIHAR</b>	
		Shri Ahmed J., Sub-Divisional Officer, Hazaribagh.	Shri Buxi K.P., Member, Block Development Committee, Ichak.
		Shri Jagannath Sahay, Government Pleader, Hazaribagh.	Shri Jagdish Prasad, Pleader, Hazaribagh.
		Shri Jha B.O., Public Prosecutor, Hazaribagh.	Shri Jeth Mull Bazari, Member, Block Development Committee, Mandu.
		Shri Shyam Krishna Prasad, Munsif, Hazaribagh.	Shri Khemlal Rai, Member, Block Development Committee, Bagodar.
		Shri Singh R.P., District Judge, Hazaribagh.	Shri Mahadeo Nath Mishra, Member, Block Development Committee, Bishungarh.
		Shri Sinha, S.P., Superintendent of Police, Hazaribagh.	
		Shri Tiwari, B.N. Registrar, Civil Court, Hazaribagh.	
18-3-61	Brambe	..	Instructors and Gram Sevak Trainees.
19-3-61	Ranchi	Shri Chakrabarti, S.K., Dy. Commissioner, Ranchi.	Shri Baleswar Singh, Gram Sevak, Bhadokra.
		Shri Jaipaty Singh, Munsif, Ranchi.	Shri Bijla Bhagat, Sarpanch, Nagra Gram Panchayat.
		Shri Sharde Prasad, Addl. Judl. Commissioner, Ranchi.	Shri Chamra Bhagat, Up-Mukhiya, Chaneya Gram Panchayat.
		Shri Sinha, D.P., Dist. Panchayat Officer, Ranchi.	Shri Dinesh Bhagat, Mukhiya, Karge Gram Panchayat.
		Shri Sita Ram Gope, Sub-Divisional Officer, Ranchi.	Shri Girja Nand Tiwari, Sarpanch, Karkara Gram Panchayat.




Date	Place	Persons examined or interviewed	
		Officials	Non-officials
20-3-61	Noor Sarai	 नमो भगवते वासुदेवाय	Shri Harbans Bhagat, Mukhiya, Kerkara Gram Panchayat.
			Shri Jagdish Sati, Gram Sevak, Manika.
			Shri Jaigobind Nath Tiwari, Mukhiya, Joher Gram Panchayat.
			Shri Jinga Bhagat, Panch, Nagra Gram Panchayat.
			Shri Lal Bhuvaneshwarnath Sahdev, Secretary, Panchayat Parishad.
			Shri Lal Singh, Sarpanch, Karkat Gram Panchayat.
			Shri Paneshwar Singh, Sarpanch, Churiya Gram Panchayat.
			Shri Rajdev Mishra, Gram Sevak, Serpur.
			Shri Ram Krishan Prasad. Gram Sevak, Kanalbigha.
			Shri Ram Rattan Ram, M.L.A.
21-3-61	Patna	Shri Sat Dev Tiwari, President, Panchayat Parishad.	..
		Shri Chaudhury, G.S., Dist. Panchayat Officer.	
21-3-61	Patna	Shri Devi Sharma, Supervisor of Panchayats, Rajgir.	
		Shri Ganguli, N.C., Sub-Divisional Officer, Bihar Serif.	
		Pandit Vinodanand Jha, Chief Minister and Minister for Panchayats.	Shri Lal Singh Teyagi, M.L.A., Secretary, All India Panchayat Pari- shad.
		Shri Durga Prasad Roy, Dy. Minister for Pan- chayats.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
22-3-61	Patna	<p>Shri Justice Kanahaya Singh Judge, Patna High Court.</p> <p>Shri Justice Mishra, S.C., Judge, Patna High Court.</p> <p>Shri Basu, B.N., Secretary, Gram Panchayat De- partment.</p> <p>Shri Rajendra Prasad, Principal, Mukhiyas and Sarpanchas Training Institute.</p> <p>Shri Raman, K.S.V., Chairman, Bihar Public Service Commission.</p> <p>Shri Saran, I.K., Deputy Director of Pan- chayats.</p> <p>Shri Sinha, M. K., Addl. Secretary, Political Deptt. (Ex. I.G. of Police)</p>	
		<p>Shri Mukherjee, M.K., Secretary, Community Develop- ment Deptt.</p>	<p>Shri Bando Prasad Singh, M.L.A., President, Purnea Dist. Panchayat Parishad.</p> <p>Miss Namita Sen Gupta, Sarpanch, Rikhiya.</p> <p>Shri Sheochandra Prasad, Ex-Judge, Patna High Court.</p>

## PUNJAB


17-4-61	Kulu	<p>Shri Chet Ram, Dist. Panchayat Officer.</p> <p>Shri Dayanand Dhir, Sub-Divisional Officer, Kulu.</p>	<p>Shri Bhagwat, Sarpanch, Shilihar.</p> <p>Shri Chattar Dass, Sarpanch, Shirar.</p> <p>Shri Dharam Chand Tanwar, Sarpanch, Naggar.</p> <p>Shri Jagannath Sharma, Sarpanch, Katada.</p> <p>Shri Jit Ram, M.L.A.</p> <p>Shri Kanwar Hemindar Singh, Sarpanch, Mohal-cum-Bhulang.</p>

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
			Shri Lasshmikant, Sarpanch Kais.
			Members of the Bar.
			Shri Thakur Kunjilal, Sarpanch, Nasogi.
			Shri Thakur Nokh Ram, Sarpanch, Choparsa.
			Shri Thakur Shahru Ram, Sarpanch, Khokhan.
			Shri Thakur Shiv Chand, Sarpanch, Hurang.
			Shri Thakur Tahal Singh, Sarpanch, Kothi Sari.
18-4-61	Dharamsala	Shri Kathpalia P. K., Deputy Commissioner, Dharamsala.	..
19-4-61	Jullundur	Shri Charan Singh Tiwana, Senior Sub-Judge, Jullundur.	Baldev Sharma, Sarpanch, Gopalpur Gram Panchayat, Dist. Amritsar.
		Shri Chhabra S.C., Deputy Commissioner, Jullundur.	Shri Bawa Singh, Advocate, Jullundur.
		Shri Jain H. K., Revenue Assistant, Jullundur.	Shri Darbara Singh, M.L.A. and President, Punjab Pradesh Congress Committee.
		Shri Kartar Kishan, Additional Distt. Magistrate, Jullundur.	Shri Darshan Singh, Advocate.
		Shri Puran Singh, State Cooperative Bank Ltd., Jullundur (Ex- Director of Panchayats, PEPSU).	Shri Harbans Singh, Sarpanch, Jandshingha Gram Panchayat, Jullundur.
		Shri Ramlal Agarwal, Sessions Judge, Jullundur.	Shri Hazara Singh, Sarpanch, Mahatapur Panchayat and Hony. Sub-Registrar, Makodar.
		Shri Randhawa R.S., Commissioner, Jullundur Division.	Shri Inder Singh Kang, Sarpanch, Kang Jabhu.
			Shri Jagat Ram, M.L.A.
			Shri Jagjit Singh, Sarpanch.

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
20-4-61	Chandigarh		<p>Shri Kishan Singh Sarpanch.</p> <p>Shri Mehar Singh, Sarpanch, Mahal Gehala, Tehsil Nawanshahr.</p> <p>Shri Mian Rattan Singh, Gularia, Sarpanch, Palora Gram Panchayat, Dist. Kangra.</p> <p>Shri Sohan Singh Mundh, Sarpanch.</p> <p>Shri Umrao Singh, M.L.A., Advocate.</p> <p>Shri Balwant Singh, Panch, Mullanpur Gram Pan- chayat.</p> <p>Shri Banarsi Das, Sarpanch, Majri Gram Panchayat.</p> <p>Shri Dalip Singh, Panch, Kansola Gram Panchayat.</p> <p>Shri Hardit Singh, Sarpanch, Magar Gram Panchayat.</p> <p>Shri Lachman Singh, Sarpanch, Balalpur Gram Panchayat.</p> <p>Shri Pritam Singh, Sarpanch, Majaj Gram Panchayat.</p> <p>Shri Raghbir Singh, Panch, Sialbra Gram Panchayat.</p> <p>Shri Sant Ram, Panch, Mayuri Gram Panchayat.</p> <p>Shri Sarban Singh, Panch, Singhpura Gram Panchayat.</p> <p>Shri Surjan Singh, Sarpanch, Balonj Gram Panchayat.</p> <p>15 Panchas and Sarpanchas.</p>
21-4-61	Chandigarh	<p>Sardar Gurbanta Singh, Minister for Community Development, Punjab.</p> <p>Chowdhury Dalbir Singh, Deputy Minister, Com- munity Projects, Punjab.</p>	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
22-4-61	Chandigarh	<p>Shri Fletcher A.L., Financial Commissioner &amp; Secretary, Panchayat Department, Punjab.</p> <p>Shri Varma D.C., Director of Panchayats.</p> <p>Shri Daljit Singh, Excise and Taxation Commissioner, Punjab (ex-Deputy Com- missioner, Ludhiana).</p> <p>Shri Jagjit Singh, Legal Remembrancer and Secretary, Legislative Department, Punjab.</p>	<p>Shri Anant Ram Sarpanch, Mirzapur Gram Pan- chayat, Dist. Karnal.</p> <p>Shri Bhag Singh, M.L.A. (ex-Sarpanch).</p> <p>Shri Dewak Ram, Advocate, Gohana, District Rohtak.</p> <p>Shri Giani Kartar Singh, Sarpanch, Bhoglam Panchayat, Dist. Patiala.</p> <p>Shri Randhir Singh, Advocate, Sonapat, Dist. Rohtak.</p> <p>Shri Sant Sadhu Singh, M.L.A.</p>
31-5-61	Jabli	<p>HIMACHAL PRADESH</p> <p>Shri Budhi Raj B.N., Tehsildar, Solon.</p> <p>Shri Joshi V.S., Inspector of Panchayats, Solon.</p>	
31-5-61	Simla	<p>Shri Randhir Singh, Magistrate, First Class.</p> <p>Shri Hem Chand, Senior Sub-Judge, Mahasu.</p> <p>Shri Kedareshwar, Government Advocate, Simla.</p> <p>Shri Negi T.S., Develop- ment Commissioner.</p> <p>Shri Prakash Chand, Magistrate, First Class, Kasumpti.</p>	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
1-6-61	Simla	Shri Srivastava K.B., Secretary, Judicial Department.	
		Shri Bajrang Bahadur Singh, Lieutenant Governor.	Shri Devi Saran, Sarpanch, Rajhana.
		Shri Capoor C.B., Judicial Commissioner.	Shri Man Mohan Singh, President, Gram Panchayat, Dhalli.
		Shri Mahinder Lal Gupta, Block Development Officer, Kasumpti.	Shri Masat Ram, Vice-President, Mashobra Gram Panchayat.
		Shri Tej Singh, District Judge, Mahasu, Sirmur.	Shri Padam Dev, M.P., (Ex-Minister, Punjab).
2-6-61	Narnahol	Shri Sharma V.S., Director of Panchayats.	Shri Sanam Ram, President Banchhuch, Gram Panchayat.
		Shri Bansil Dhar, Senior Sub-Judge, Bilaspur.	
		Shri Chandel K.R., Deputy Commissioner, Bilaspur.	
		Shri Rattan Singh, Treasury Officer, Bilaspur.	
		Shri Surat Singh, Revenue Officer, Bilaspur.	
3-6-61	Theog	Shri Bishan Das, Magistrate First Class, Theog.	Shri Azad S.S., Advocate.
			Shri Thakur Das Dogra, Advocate.
		Shri Narsingh Dass, Sub-Judge, Theog.	
,,	Narkanda	Shri Bhota M.M., Panchayat Education Officer.	
		Shri Mahajan Y.R., Block Development Officer.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
		<p>Shri Narain Das, Tehsildar, Kumarsuin.</p> <p>Shri Trilok Singh, District Panchayat Officer.</p> <p><b>MADRAS</b></p>	
12-6-61	Madras . . .	<p>Shri Chockalingam K., Deputy Secretary, Home Department.</p> <p>Shri Gopalaswami R.A., Chief Secretary.</p> <p>Shri Ramaswami K., Secretary, Law Department.</p>	
13-6-61	Vellore . . .	 <p>नमो भगवते वासुदेवाय</p>	<p>Shri Chandrasekharan V.C., Advocate, Vellore.</p> <p>Shri Kesavan C.K., President, Guidiyattam Taluk, Panchayat Presidents' Union.</p> <p>Shri Krishnamurthi V., M.L.A., Vellore.</p> <p>Shri Nammalwar Pillai, President, Agaram Panchayat Board and Member, District Deve- lopment Council.</p> <p>Shri Rajagopalachari V.C., Advocate, Vellore.</p> <p>Shri Sivanesan V.S., Chairman, Panchayat Union, Arcot.</p> <p>Shri Sundaram K. R., President, Dharapadavedu Panchayat Board.</p>
14-6-61	,,	<p>Shri Gopalakrishna Rao, Sub-Magistrate, Vellore.</p> <p>Shri Jayapalan K., Deputy Collector and Additional P.A. to Collec- tor, North Arcot.</p>	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
15-6-61	Salem	Shri Kelu Brady C. P., Collector, North Arcot.	
		Shri Mrithyunjayan S., Deputy Collector and P.A. to Collector, North Arcot.	
		Shri Sambandam K. V., District Magistrate, Vellore.	
		Shri Sankaralingam M. S., Principal District Munsif, Vellore.	
		Shri John Theodore, Deputy Collector and Additional P.A. to Collec- tor, Salem.	Shri Bhaskar C.S., Bar-at-Law.
		Shri Mohd. Habib, District and Sessions Judge, Salem.	Shri Bhimasena Rao, President, Salem Advo- cates Association.
16-6-61	Tirupur	Shri Paul C. R., District Magistrate, Salem.	Shri Doraiswamy, Presi- dent, Panchayat Court.
		Shri Ramanathan K. V., Collector, Salem.	Shri Ganesa Sakar A., Advocate.
			Shri Govindan K. A., President, Mandal Con- gress Committee.
			Shri Isurappan T., M.L.A.
17-6-61	Coimbatore		Shri Nagaraja Maniyar S., M.L.A.
			Shri Narasimha Iyengar K., Advocate.
16-6-61	Tirupur	District Munsif, Tirupur.	Shri Rangaswamy Ayyar, Advocate.
		Muthiah, Sub-Divisional Magistrate, Tirupur.	Shri Subbiah, Secretary Bar Association.
17-6-61	Coimbatore	Shri Maharajan S., District Judge.	Shri Miruthiarajamurthy, Secretary, Bar Associa- tion.
		Shri Maqbul Sheriff, District Munsif.	Shri Ramachandriah G. V., President, Bar Association.
		Shri Nagappa Gounder C.N., Special Honorary Magistrate.	



Date	Place	Persons examined or interviewed	
		Officials	Non-officials
26-6-61	Madras	<p>Shri Ramachandran G., Collector.</p> <p>Shri Ramaswamy Pillai V.C., Government Pleader.</p> <p>Shri Bhaktavatsalam M., Home Minister, Madras.</p> <p>Shri Justice Ananthanara- yanan, Judge, Madras High Court.</p> <p>Shri Justice Ganapathia Pillai, Judge, Madras High Court.</p> <p>Shri Justice Kailasam, Judge, Madras High Court.</p> <p>Shri Justice Srinivasan K., Judge, Madras High Court.</p>	
19-6-61	Palghat	<p>Principal District Munsif, Palghat.</p> <p>Shri Sankunni Menon, Panchayat Officer.</p>	<p>Shri Achutha Varier, K.V.S., President, Kodumba Pan- chayat Board.</p> <p>Shri Krishnamurthy A., Advocate.</p> <p>Shri Panicker K. P. S., President, Marathe rode Panchayat Board.</p> <p>Shri Rajagopalan G. Advocate.</p> <p>Shri Vydinathan C. R., Advocate.</p>
19-6-61	Wadakkanchery	Shri Naraynan Namboodiri P., Registrar of Village Courts	
20-6-61	Trichur	<p>Shri Prabhakaran Nair S. K., Additional District Judge, Trichur.</p> <p>Shri Ramavarma Tham- purn, Collector, Trichur.</p>	<p>Shri Bhaskaran K., Advocate.</p> <p>Shri Joseph Accar, Advo- cate and President, Ollur Village Court.</p>
,,	Chalakudy	Shri Ganapathy Iyer P. S., Panchayat Extension Officer.	Shri Joseph N. T., B.A., B.L., B.T., President, Mundur Village Court and Headmaster, Mundur High School.

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
21-6-61	Ernakulam	Shri Naidu S. S., Deputy Director of Local Bodies, Trichur.	Shri Menon P. C., Advocate, representing Trichur Bar Association.
			Shri Nambiar K.S., Advocate and President, Kannimangalam Village Court.
			Shri Ramakrishnan, Advocate and President Trichur Village Court.
21-6-61	Ernakulam		Shri Thampan C.K.K., Advocate and Senior Judge, Trichur Village Court.
			Shri Venugopal M., Advocate, Secretary Trichur Bar Association.
			Shri Warriar K. K., M.P.
21-6-61	Ernakulam	Shri Justice Ansari M.A., Chief Justice, Kerala High Court.	Shri Augustine K.P., B.A., B.T., President, Narakkal Village Court.
		Shri Justice Raman Nair P.T., Judge, Kerala High Court, Ernakulam.	Shri Dewar P.K., Ex.-M.L.A. and President, Ernakulam Village Court.
		Shri Oommen P.K., Additional District Magistrate, Ernakulam.	Shri Verghese K.A., B.A., L.T., President, Nadumal Village Court.
22-6-61	Kottayam	Shri Kumaran Nair K., Tehsildar, Kottayam.	Shri Chacko P.K., President, Village Panchayat and Chairman, B.M. Court, Kottayam.
		Shri Kurvilla P.D., Deputy Director of Local Bodies, Kottayam.	Shri Chidambaran Pillai K.P., B.A.C. Member, Pallom Block.
		Shri Sankara Pillai, Deputy Registrar, Kottayam.	Shri Kurien John K., Advocate.
		Shri Sree Kumaran Nair T., Block Development Officer, Pallom in charge.	Shri Narayanan Nair T.P., President, Nattakom Panchayat.
		Shri Varkey M.M., Collector of Kottayam.	Shri Panikkar P.N.P., Advocate, Kottayam.

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
24-6-61	Trivandrum	<p>Shri Chandrasekharan K., Minister for Law &amp; Revenue.</p> <p>Shri Cyriac V.G., Deputy Development Commissioner.</p> <p>Shri Gopala Pillai N., B.A., B.L., Director of Local Bodies.</p> <p>Shri Kurup P.V., Joint Secretary, Law Department.</p> <p>Shri Padmanabha Iyer P., Collector, Trivandrum.</p> <p>Shri Sankaran Elayath P., Secretary, Law Department.</p> <p>Shri Sivaraman D., Deputy Secretary, Home Department.</p> <p>Shri Velukutty Nair M., Additional District Magistrate, Trivandrum.</p> <p>Shri Velu Pillai P., Executive First Class Magistrate, Trivandrum.</p>	<p>Shri Parameswaran Nair P.K., Hony. Judge and 2nd Class Magistrate, V.P. &amp; B.M. Court, Kottayam.</p> <p>Shri Pisharody K.P.K., Sub-Editor, "Malayala Manorama"</p> <p>Shri Sankunni Menon K., President, Kumarakom Panchayat.</p>
ANDHRA PRADESH			
28-6-61	Mangalagiri	Shri Sivaramakrishnayya Y., Block Development Officer, Mangalagiri.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
28-6-61	Guntur	<p>Shri Doraiswamy, Joint Collector, Guntur.</p> <p>Shri Kutumba Rao Y.V., Principal Judicial Second Class Magistrate, Guntur.</p> <p>Shri Mani G.V.S., Collector, Guntur.</p> <p>Shri Natesan R., Principal Dist. Munsif, Guntur.</p> <p>Shri Ranga Reddy G., Regional Inspector of Local Bodies.</p>	Shri Venkateswarulu V., President, Sattanapalli Panchayat.
1-7-61	Hyderabad	<p>Shri Abbas K.A., Deputy Secretary.</p> <p>Shri Suryanarayanawami D., Secretary, Law Department.</p>	
2-7-61	Malkajigiri	Shri Hanuman Das Sanghi, Extension Officer.	
3-7-61	Hyderabad	<p>Shri Brahmananda Reddy K., Minister for Finance and Law.</p> <p>Shri Justice Basi Reddi P., Judge, Andhra High Court.</p> <p>Shri Justice Seshachalapathy M., Judge, Andhra High Court.</p> <p>Shri Narasimhan C., Secretary, Planning &amp; Local Ad- ministration Department.</p> <p>MYSORE</p>	
9-8-61	Mysore	<p>Shri Bhim Rao, Headquarters Assistant to the Deputy Commissioner, Mysore.</p> <p>Shri Gunde Rao, Special Land Acquisition Officer, Mysore.</p>	<p>Shri Aziz Sett, M.L.C.</p> <p>Shri Chamiah C.S., Chairman, Chamundi Hills Panchayat.</p>


Date	Place	Persons examined or interviewed	
		Officials	Non-officials
10-8-61	Bangalore	<p>Shri Jagadish C., Tehsildar, Mysore.</p> <p>Shri Lingaiah A.L., Block Development Officer, Mysore.</p> <p>Shri Nazir-ud-Din Ahmed, Deputy Commissioner, Mysore.</p> <p>Shri Obeidullah S., Assistant Commissioner, Nanjangode.</p> <p>Shri Pratap Singh, Secretary, District De- velopment Council, Mysore and District Development Assistant to the Deputy Com- missioner, Mysore.</p>	<p>Shri Kampaveeraiah Gowda K., Taluk Board Member, Mysore.</p> <p>Shri Krishniah M., Chairman, Taluk Board, Nanjangode.</p> <p>Shri Madayya M., Member, District Council, Mysore and Member, Taluk Board, Nanjangode.</p> <p>Principal, Instructors and Trainees of the Orientation Training Centre, Mysore.</p> <p>Shri Suryanarayana Rao K.S., M. L. A. and Taluk Board Member and Mem- ber, District Development Council, Mysore.</p>
		<p>Shri Subramanya T., Minister for Develop- ment &amp; Local Self- Government.</p> <p>Shri Vaikunta Baliga, B., Minister for Law.</p> <p>Shri Dubashi P. R., Deputy Development Commissioner.</p> <p>Shri Tukol T. K., Secretary, Law Department.</p>	<p>Shri Reddy H. F. M., Advocate, representing Bar, Association, Ban- galore.</p>
11-8-61	,,	<p>Shri Justice Hegde K.S., Judge, Mysore High Court.</p> <p>Shri Justice Sadasivayya M., Judge, Mysore High Court.</p>	
RAJASTHAN			
5-9-61	Udaipur	<p>Shri Bhat A.L., B.D.O., Girwa.</p>	<p>Shri Acharya Niranjan Nath, Deputy Speaker, Rajasthan Legislative Assembly.</p>

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
		Shri Gaur U. S., Principal, Orientation and Study Centre, Udaipur.	Shri Himat Singh Nagari, Chairman, Bar Association.
		Shri Joshi J. R., Assistant Collector and Magistrate No. 2.	Shri Jain N. C., Secretary, Zila Parishad.
		Shri Kanungo J. R., Magistrate, First Class No. 1.	Miss Kanta Bhatnagar, Up-Pramukh, Zila Parishad.
		Shri Kochar S.C., Senior Civil & Additional Sessions Judge, Udaipur.	Shri Manohar Kothari, Advocate, M.L.A.
		Shri Kurup P.K.B., Collector and District Magistrate.	Shri Mohan Lal Kothari, Advocate, Secretary Bar Association.
		Shri Mathur, C.L., Munsif.	Shri Pratap Singh, Pradhan, Panchayat Samiti, Girwa and Member, Zila Parishad.
		Shri Menon P.R.S., R.A.S.	Shri Vijay Singh, Chairman, Nyaya Panchayat, Kurabad.
		Shri Mishra T. N., Sub-Divisional Magistrate.	
		Shri Nathu Lal, Civil Judge.	
		Shri Shankar B., R.A.S.	
		Shri Sharma R. D., Additional District Magistrate.	
		Shri Singhvi A.S., Sub-Divisional Magistrate.	
		Shri Thanka, N.N., R.A.S.	
		Shri Tiwari G. L., Assistant to the Collector for Panchayat Department.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
6-9-61	Udaipur	Shri Mohanlal Sukhadia, Chief Minister.	
7-9-61	Dungarpur	Shri Shrimali J. S., Sub-Divisional Magistrate, Dungarpur.	Shri Gouri Shankar Upadhyay, Pramukh, Zila Parishad.
8-9-61	Jaipur	Shri Sham Behari Lal, Civil Judge.	
		Shri Gurmukh Nihal Singh, Governor of Rajasthan.	Shri Chandra S.R., Advocate.
		Shri Anil Bordia, Sub-Divisional Magistrate, Jaipur.	Shri Joshi B. N., M.L.A., Bandipur.
		Shri Daulat Singh, Deputy Development Commissioner (Pancha- yats).	
		Shri Ganpat Singh Bhandari, Munsif, Jaipur District.	
		Shri Gopal Narain, District Judge.	
		Shri Mathur R.D., Development Commis- sioner.	
		Shri Mehta B., Chief Secretary.	
		Shri Sharma D.C., Secretary, Judicial and Legislative Depart- ment.	
		Shri Sharma K.N., District Judge, Jaipur.	
UTTAR PRADESH			
25-9-61	Lucknow	Shri Chaturbhuj Sharma, Minister for Local Self- Government.	Shri Bajpai, Sarpanch, Auna, Dist. Lucknow.
		Shri Ganeshi Lal Chow- dhury, Parliamentary Secretary to the Minister for Local Self-Government.	Shri Bhagwant Bux Singh, Sarpanch, Bantra, District Lucknow.
			Shri Jagan Nath, Sarpanch, Bhatgaon, Lucknow.


Date	Place	Persons examined or interviewed	
		Officials	Non-officials
26-9-61	Bakshi-Ka-Talab	Shri Anup Singh, Deputy Secretary, Home Department.	Shri Jamuna Shankar Tri- vedi, Sarpanch, Latifnagar, District Lucknow.
		Shri Bhagwant Singh, Director of Panchayats.	Shri Prem Nath Singh, Sarpanch, Meerut.
		Shri Bhatnagar M.P., Dy. Director of Pan- chayats (Accounts).	Shri Shaturbhan Singh, Pradhan, Bahrauli Gram Sabha.
		Shri Jain R.C., Dy. Director of Pan- chayats.	
		Shri Mahmudul-Hasan, Dy. Director of Pan- chayats.	
		Shri Mathur H.S., Dy. Director of Pan- chayats.	
		Shri Oswal, Deputy Legal Remembrancer.	
		Shri Pant R. C., Ex-Deputy Secretary, Local Self-Government Department.	
		Shri Ram Singh, Secretary, Revenue Department.	
		Shri Satish Chandra, Secretary, Planning Department and De- velopment Commissioner.	
		Shri Sharma R. L., Dy. Director of Pan- chayats.	
		Shri Tiwari J. N., Secretary, Local Self-Government Department.	
		Shri Dhondial C.S.P., Block Development Officer.	Shri Anant Kumar, Pramukh, Block Jagatpur, Dist. Rai Bareilly.
		Shri Mishra J. N., Principal, Training Centre and Director, S.E.O.T.C.	Shri Beni Prasad, Pramukh, Sumerpur, Dist. Mhow.
		Shri Sakar Ram, Chief Instructor and Dy. Director, S. E. O. T. C.	Shri Brijpal Singh, Block Pisava, Dist. Sitapur.



Date	Place	Persons examined or interviewed	
		Officials	Non-officials
26-9-61	Pratapgarh		Shri Devi Singh, Block Siddholi.
			Shri Ganga Sarup, Pramukh, Dist. Sitapur.
			Shri Kashinath Malhotra, Pramukh, Behta Khud, Dist. Hardoi.
			Pandit Gopinath, Pramukh Block Laharpur, Dist. Sitapur.
			Shri Prem Narain, Pramukh, Unnao.
			Shri Ramadhar, Pramukh, Block Bhiani, Dist. Hardoli.
			Shri Ram Avtar Sharma, Pramukh, Block Phool Behad, Dist. Kheri.
			Shri Ram Sarup Gupta, Pramukh, Dist. Kheri.
			Shri Raj Mangal Singh, Pramukh.
			Shri Shiv Mangal Tripathi, Pramukh, Block Safipur, Dist. Unnao.
			Shri Surendra Nath Misra, Pramukh, Block Sehabad, Dist. Allahabad.
		Shri Bagchi J. P., Sub-Divisional Officer, Sadar.	Shri Avadha Bihare Dube, Sarparch, Kadipur Panchayat.
		Shri Brahne Kishore, Munsif, Sadar.	Shri Harkesh Bahadur, Vakil.
		Shri Dilder Hasan, Government Pleader, (Criminal).	Shri Singh R. B., Sarpanch, Chhatauna.
		Shri Kakkar K. B., District Planning Officer.	Shri Shukla R. R., Adhyaksh, Artarim Zila Parishad.
		Shri Kashi Prasad, Panchayat Inspector, Mandhat.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
1-9-61	Allahabad	Shri Khan M. S., Sub-Divisional Officer, Kunda.	
		Shri Kishore B. R., Superintendent of Police.	
		Shri Ramesh Singh, Government Pleader (Revenue).	
		Shri Shivdhar Misra, Assistant District Pan- chayat Officer, Pratapgarh.	
		Shri Singh J. P., Sub-Divisional Officer, Patti.	
		Shri Singh S.P., Block Development Officer, Pratapgarh.	
		Shri Srivastava B. L., Munsif, Kunda.	
		Shri Tribhuvan Bahadur Singh, A. D. O., Panchayat.	
		Shri Tripathi, R. P. Government Pleader (Civil).	
		Shri Yadava R. C. S., A.D.O., Panchayat, Kalakankar Block.	
		Shri Justice Dwivedi S. N., Judge, Allahabad High Court.	Dr. (Miss) Vijaya Lakshmi Purwar, Research Scholar.
		Shri Justice Mithanlal, Judge, Allahabad High Court.	Shri Bharat Singh, Sarpanch.
		Shri Justice Oak V. G., Judge Allahabad High Court.	Shri Lokanath Vaid, Sarpanch.
		Shri Justice Sharma J.D., Judge, Allahabad High Court.	Shri Narain Singh, Sarpanch.
		Pandit Kanhaya Lal Misra, Advocate-General.	Shri Shiv Partap Singh, Sarpanch.
		Shri Mahabir Saran Das, Dist. Magistrate, Allaha- bad.	Shri Vighulilal Singh, Sarpanch.
			Shri Govind Singh, Pramukh.

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
		Shri Misra, A.D.O. Shri Pancholi R.L., Sub-Divisional Magistrate, Phulpur. Shri Prag Narain Chande, Block Development Officer. Shri Rastogi A.D.M., Planning, Allahabad. Shri Srivastava K.D., Sub-Divisional Magistrate, Meja.	Shri Gulab Singh, Pramukh. Shri Jaganlal Parshad, Pramukh. Shri Jagdish Singh, Pramukh. Shri Jakhu Lal, Pramukh. Shri Mahadev Paralad Gupta. Shri Ramdhan Yadev. Shri Ram Kirpal Upadhya, Pramukh, Meja Gram Sabha. Shri Ram Manohar Pande, Pramukh. Shri Ram Naresh Pramukh. Shri Sarju Pande, President, Zila Parishad. Shri Suraj Din. Shri Uma Shankar Tiwari, Pramukh.
28-9-61	Philkhini- Chhauni.	Shri Chowdhury G.S., Dist. Planning-cum- Panchayat Officer.	
,	Baraut	Shri Bansrupan Singh, Block Development Officer (P). Shri Suryabati Singh, Asstt. Block Develop- ment Officer (P).	
28-9-61	Varanasi	Shri Bhatia L. M., Dist. Magistrate. Shri Jain M.C., S.D.O./ S.D.M., Chandauli. Shri Kohli L.R., City Munsif. Shri Saxena R.K., Munsif, Haveli. Shri Tripathi D.N., S.D.O., Varanasi.	Shri Ahiv Shankar Prasad, Pramukh. Shri Amarnath Dube, Sarpanch. Shri Avadhish Narain Singh, Sarpanch. Shri Badri Narain Singh, Block President. Shri Bala Krishan, Pramukh.

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
29-9-61	Sarnath	 Shri Birendra Bahadur Singh, A.D.O. (Panchayats), Chiraingaon.	Shri Bali Ram Pande, Sarpanch. Shri Ganji Prasad, Pramukh. Shri Hasan I., Advocate. Shri Lal Bahadur Singh, M.L.A. Shri Lalji Singh, Sarpanch, Marhi. Shri Manbodh Shukla, Sarpanch, Ramsinghpura. Shri Mohan Piarey, Advocate. Shri Nazir Ahmed, President, Garjipur Gram Sabha. Shri Sagar Singh, Vakil. Shri Shastri K.K., Member, Adampore Gram Panchayat. Shri Shyam Lal Yadev, M.L.A. Shri Vidyanath Giri, Panchayat Secretary. Shri Laxminarayan Singh, Pradhan, Sultanpur. Shri Radhe Charan Singh, Panchayat Secretary, Chiraingaon Nyaya Panchayat. Shri Raj Nandan Sahu, President and Sarpanch, Chiraingaon Block. Shri Ram Nath M urya, Sarpanch. Shri Sadaphal Prasad Maurya, Panch, Narayanpur Nyaya Panchayat. Shri Sahadev, Additional Sarpanch, Chiraingaon. Shri Shambhu Narain, President, Baxiyasanpur Gram Panchayat.

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
			Shri Udai Nath, President, Chiraingaon Gram Panchayat.
JAMMU AND KASHMIR			
23-10-61	Srinagar	Shri Aga N., Commissioner, Srinagar.  Shri Sanaullah, Dy. Commissioner, Srinagar.	Shri Abdul Khaliq Mir, Chairman, Palpara Panchayat.  Shri Abdul Qayum, M.L.A.  Shri Abdul Rahman, Sar- panch, Palpara Panchayat.  Shri Abdul Rahman, Sarpanch, Zewan Panchayat.  Shri Abdulla Sheikh M., Sarpanch, Khumli Panchayat.  Shri Ghulam Nabi Wari, Sarpanch, Guftganja Panchayat.  Shri Khazir Mohamad, Sarpanch, Batpura Panchayat.  Shri Mohamad Sultan Chairman, Judicial Committee, Zewan Pan- chayat.  Shri Ramzan Laon, Chairman, Khumli Panchayat.  Shri Safvi, M.L.A.
24-10-61	Bandipur	Shri Bargotra G. D., Deputy Development Commissioner.  Shri Mufti Bahaud-Din, Additional District Magistrate, Baramula.  Shri Sheikh Ghulam Ahmed, Deputy Com- missioner, Baramula.	Shri Jail Baba, M.L.A.
,,	Srinagar	Shri Bakshi Ghulam Mohammad, Prime Minister of Jammu and Kashmir.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
25-10-61	Srinagar	<p>Shri Trali A. G., Minister of State for Community Development.</p> <p>Shri Abdul Qadir, Dist. &amp; Sessions Judge.</p> <p>Shri Agha S. M., Development Commissioner.</p> <p>Shri Dwarka Nath, Secretary, General De- partment.</p> <p>Shri Khosla D. D., Deputy Secretary, General Department.</p>	
„	Medura	<p>Shri Ghulam Qadir, Block Development Officer.</p>	
GUJARAT			
13-11-61	Sarkhej	<p>Shri Makhwana P. B., Taluk Panchayat Officer.</p> <p>Shri Rana M. V., Extension Officer (Agriculture).</p> <p>Shri Thakur B. M., District Panchayat Officer.</p>	
13-11-61	Bawla	<p>Shri Vinobhai Patel, Block Development Offi- cer, Dholka.</p>	
14-11-61	Kolithad	<p>Shri Anthani J. G., Asstt. Commissioner (Village Panchayats), Rajkot Division.</p> <p>Shri Balakrishnan R., Asstt. Collector, Gondal.</p> <p>Shri Brahm Bhatt, Block Development Officer, Gondal.</p> <p>Shri Buddha K. D., Asstt. Commissioner (Development), Rajkot Division.</p>	
	Rajkot	<p>Shri Mankodi G. F., Commissioner, Rajkot Division.</p>	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
14-11-61	Ahmedabad	<p>Shri Adani R. A., Minister for Public Works &amp; Rural Deptt.</p> <p>Shri Hitendra K. Desai, Minister for Law.</p> <p>Shri Gill A. S., Deputy Secretary, General Administration Department.</p> <p>Shri Manepatil B. R., Collector, Ahmedabad.</p> <p>Shri Paranjpe B. V., Deputy Secretary, Law Department.</p> <p>Shri Trivedi H. H., Deputy Secretary, Rural Development Department.</p>	
		MAHARASHTRA	
15-11-61	Bombay	<p>Shri Tilke N. M., Deputy Minister for Rural Development.</p> <p>Shri Dalal B. P., Secretary, Law Depart- ment.</p> <p>Shri Ghatne, Registrar, High Court.</p> <p>Shri Palekar S. B., Additional Secretary, Law &amp; Judicial Department.</p> <p>Shri Sathe D. D., Development Commis- sioner and Secretary, Co- operation and Rural De- velopment Department.</p> <p>Shri Wani B. V., Assistant Commissioner of Pancha- yats, Bombay Division.</p>	<p>Shri Samant W. T., Vice-Chairman Divisional Development Council for Village Panchayats.</p> <p>Shri Vartak S. G., Vice-Chairman, Divisional Council for Village Pan- chayats, Bombay Division.</p>
16-11-61	Bhuing	<p>Shri Gate D. M., B.D.O., Khandala Bawdi Block.</p> <p>Shri Kale K. R., B.D.O., Wai Block.</p>	


Date	Place	Persons examined or interviewed	
		Officials	Non-officials
16-11-61	Vadagaon	<p>Shri Patel D. B., Dist. Panchayat Officer, Satara.</p> <p>Shri Shitole S. M., Asstt. Commissioner for Village Panchayats, Poona.</p> <p>Shri Athavale S. A., Tehsildar, Vadagaon.</p> <p>Shri Bhonsle R. K., B.D.O., Vadagaon Block.</p> <p>Shri Tane S.V., Senior Auditor, Poona Electrical Division.</p> <p>Shri Vankudre B. D., Additional Tehsildar, Vadagaon, Mawal Taluk.</p>	<p>Shri Bavare M. G., Social Worker.</p> <p>Shri Gokhale N. K., Pleader.</p> <p>Dr. Joshi B.G., Medical Practitioner.</p>
17-11-61	Bombay	<p>Shri Chavan Y. B., Chief Minister.</p> <p>Shri Justice Chainani H.K., Chief Justice, Bombay High Court.</p> <p>Shri Justice Naik V.A., Judge, Bombay High Court.</p> <p>Shri Justice Tambe Y. S., Judge, Bombay High Court.</p>	
WEST BENGAL			
24-11-61	Calcutta	<p>Shri Ishwar Chandra Jalan, Minister for Local Self- Government.</p> <p>Shri Bardhan N. K., Director of Panchayats &amp; <i>Ex-Officio</i> Joint Secretary, Local Self-Government Department.</p> <p>Shri Bhattacharji T. P., S.D.O., Sadar, 24-Parganas.</p> <p>Shri Kutty M. G., Additional Dist. Magistrate, Howrah.</p>	



Date	Place	Persons examined or interviewed	
		Officials	Non-officials
25-11-61	Chinsurah	Shri Sanyal, J., S.D.O., Sadar, Howrah.	
		Shri Sen Gupta, B., District Magistrate, 24 Parganas.	
		Shri Banerji, R. N., S.D.O., Sadar.	Shri Chowdhury, J. N., President, Pleader's Bar.
		Shri Banerji, R. R. First Munsif.	Shri Ghosh, B. N., President, Mukhtiar's Bar.
25-11-61	Pandua	Shri Dutt, J. C. Addl. Dist. Magistrate.	
		Shri Menon, K.P.A., Dist. Magistrate.	
		Shri Syam, A., Dist. Judge.	
25-11-61	Pandua	Shri Som, N., Dist. Panchayat Officer, Hooghly.	
25-11-61	Bantul	Shri Chakravarty, Deputy Director of Pan- chayats.	
		Shri Chatterjee, Dist. Panchayat Officer.	
		Shri Mondal, B. M. S.D.O., Ululera.	
26-11-61	Calcutta.		Shri Debabrata Sinha, President, Howrah Mukhtiar's Association.
			Shri Prafula Gopal Maj- umdar, Secretary, Mukhtiar's Bar Associa- tion, Alipore.
			Shri Sarkar, N. N., Assistant Secretary, Alipore Mukhtiar's Bar Association.
27-11-51	Calcutta	Shri Justice Mukherjee, B., Judge, Calcutta High Court.	
		Shri Justice Sisir Kumar Sen, Judge, Calcutta High Court.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
		<p>Shri Banerji, D. K., Assistant Development Commissioner.</p> <p>Shri Banerjee, H., Development Commissioner.</p> <p>Shri Banerjee, S.T., Dy. Development Commissioner.</p> <p>Shri Majumdar, A. K. Deputy Secretary, C.D. &amp; E., Dept., and Ex- Officio Deputy Development Commissioner.</p> <p>Shri Ray, S. B. Additional Development Commissioner.</p>	
		ORISSA	
29-11-61	Nayagarh	<p>Shri Patnaik, P.C., S.D.O. (Civil).</p> <p>Shri Pitamber Jena, S.D.M. &amp; Munsif.</p>	
29-11-61	Itamati	Shri Dass, P.B. Gram Panchayat Organiser.	
29-11-61	Puri	<p>Shri Giridhar Das, S.D.M., Puri.</p> <p>Shri Misra, V. N., Dist. Judge, Puri.</p> <p>Shri Saraf, T. N. Collector and District Magistrate.</p> <p>Shri Tripathi, N. Additional District Magistrate.</p>	<p>Shri Bahinprati, H., Pleader.</p> <p>Shri Bahagaba Mishra, Member, Gaon Panchayat.</p> <p>Shri Gobind Tripathy, Chairman, Sadar Panchayat Samiti.</p> <p>Shri Gopalandhur Jena, Chairman, Panchayat Samiti.</p> <p>Shri Harichandan F., Chairman, Kanas Panchayat Samiti</p> <p>Shri Narayan Misra, Pleader.</p> <p>Shri Padmacharan Samanta, Singhara, Chairman, Zila Parishad.</p>

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
30-11-61	Ganjam	<p>Shri Dev N.C., Revenue Divisional Officer, Chatrapur.</p> <p>Shri Mohanty R.N., Tehsildar.</p> <p>Shri Naik K.C., Assistant Director, Gram Panchayat.</p>	<p>Shri Parimal Kanti Ghosh.</p> <p>Shri Udayanth Jena, Chairman, Panchayat Samiti.</p>
30-11-61	Berhampur	<p>Shri Panigrahi D., Gram Panchayat Organiser.</p> <p>Shri Jena R.C., Munsif, Berhampur.</p> <p>Shri Mohanty S.K., A.D.M. (Judl) Berhampur.</p> <p>Shri Patnaik P.M., S.D.M., Berhampur.</p> <p>Shri Ramadorai B., Collector.</p>	<p>Shri Beshoya, A.P. of Sothi, Panchayat.</p> <p>Shri Biswanath Das., M.L.A.</p> <p>Shri Chatterjee A.K., Secretary, Ganjam Bar Association.</p> <p>Shri Das K.R., Pleader.</p> <p>Shri Deo B.G., Chairman, Panchayat Samiti, Patrapur.</p> <p>Shri Digambar Rath, President, Bar Association, Berhampur.</p> <p>Shri Jeen V., President, Adalati Panchayat, Golcutta.</p> <p>Shri Jogandhu S.C., President, Adalati Panchayat, Ninopoti.</p> <p>Shri Misra G.C., Representative, "Samaj" Berhampur.</p>

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
1-12-61	Bhubaneswar	 नमो भगवते वासुदेवाय	Shri Padhy C.S., Naib Sarpanch, Pandamati.  Shri Panigrahi D., Chairman, Chikoti Panchayat Samiti.  Shri Patnaik B.N., Secretary, Kukada Khandi G.P.  Shri Pattajosi, B., President, Adalati Panchayat, Putapur.  Shri Pradhan T.N., President, Adalati Panchayat, Chikote.  Shri Rao B.B., President, Adalati Panchayat, Kukada Khandi.  Shri Sahoo K.N., President, Adalati Panchayat, Nimokhandi.  Shri Sahu A.M., Secretary, Zalhy G.P.,  Shri Srivastava, President, Adalati Panchayat, Predamori.
		Shri Bijoyananda Patnaik, Chief Minister.  Shri Ramakrishnayya M., Development Commissioner.  Shri Rath B.B., Director of Panchayats.  Shri Sivaraman B., Chief Secretary.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
DELHI			
18-12-61	New Delhi	Shri Dey S.K., Minister of Community Development and Co- operation.	
23-12-61	„	Shri Murthy B.S., Deputy Minister of Community Development and Cooperation.	
22-7-61	„	Shri Setalvad M.C. Attorney General of India.	
30-12-61	Azadpur	Shri Madhi Pal Singh, Panchayat Secretary.	
„	Alipore	Shri Narain Singh, Inspector of Panchayats.  Shri Randhir, Panchayat Secretary.	
„	New Delhi	Shri Anang Pal, Director of Panchayats.  Shri Sharma P.N., Deputy Director of Panchayats.  Shri Singh K.P. Development Commissioner.	
MADHYA PRADESH			
15-1-62	Indore	Shri Agarwal K.L., Collector.  Shri Gumastha R.B.L., Deputy Director of Panchayats.  Shri Kale G.R., Dist. & Sessions Judge.  Shri Lahari G.S., Divisional Panchayat and Welfare Officer.  Shri Mazumdar P.V., Additional Dist. Judge.  Shri Modak S.V., Deputy Collector (Panchayats).	Shri Bhagirath Varma, Sarpanch, Kendra Panchayat, Mhow.  Shri Bhagwat Sabu, Sarpanch, Mandal Panchayat, Indore.  Shri Pandit S.R., Advocate.

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
17-1-62	Bhopal	<p>Shri Saxena, R.C., S.D.O., Indore. Mhow.</p> <p>Shri Pataskar H.V., Governor of Madhya Pradesh.</p> <p>Shri Bapna P.S., Development Commis- sioner.</p> <p>Shri Chib S.K.S., Deputy Secretary, Local Government and Public Health Depart- ment.</p> <p>Shri Chowdhary V.S., Officer on Special Duty, L.A. Dept.</p> <p>Shri Gunaatha R.B.L., Deputy Director of Panchayat.</p> <p>Shri Jain G.P., Secretary, Local Gov- ernment of Rural Deve- lopment Department.</p> <p>Shri Khan A.S., Secretary, Local Government &amp; Rural Dev. Dept.</p> <p>Shri Pachery V.D., Divisional Panchayat and Welfare Officer, Bhopal.</p> <p>Shri Shankhdhar Singh, Director, Panchayats &amp; Social Welfare.</p> <p>Shri Trivedi R.G., Secretary, Law Depart- ment.</p>	
17-1-62	Sanchi	<p>Shri Joshi D.K., Extension Officer, Indus- tries, Sanchi.</p> <p>Shri Shanti Lal, V.L.W., Circle, Gulgaon</p>	
ASSAM			
5-3-62	Shillong	<p>Shri Ahmed A., Deputy Secretary, C.D. Department.</p>	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
6-3-62	Mawsynram	Shri Bhattacharjee M., Accounts Officer.	
		Shri Chaudhuri R.C., Joint Secretary, Law Department.	
		Shri Das J.N., Director of Panchayats.	
		Shri Deshmukhya T.N., Special Officer, Dev. Department.	
		Shri Kagi, S.C., Development Commis- sioner.	
		Shri Paul R.R., Deputy Director of Panchayats.	
		Shri Roy K.M., Asstt. Development Com- missioner (Hills).	
		Shri Sharma, B., Legal Remembrancer.	
		Shri Thakuria B.S., Under Secretary, Community Develop- ment Department.	
		Shri Thomas C., Under Secretary, Community Development Department.	
		Shri Hazarika P.C., Extension Officer, Cottage Industries.	
		Shri Livingstone Sadap, Social Education Organiser.	
		(Miss) Rapthap S.M., Lady Health Visitor, Mawsynram Dev. Block.	
		Shri Tieiewsoh, Block Development Officer, Mawsynram Dev. Block.	
		(Miss) Warkhullew J., Midwife, Mawsynram Dev. Block.	

Date	Place	Persons examined or interviewed	
		Officials	Non-officials
7-3-62	Gauhati	Shri Wolfgang G., Assistant Co-op. Officer, Mawsynram Dev. Block. Shri Fakhruddin Ali Ahmed, Minister. for Panchayat. Shri Justice Gopaljee Mehrotra, Chief Justice, Assam High Court. Shri Justice Dutta S.K., Judge, Assam High Court.	

## B. LIST OF NYAYA PANCHAYATS VISITED AND PERSONS EXAMINED OR INTERVIEWED

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
BIHAR		
17-3-61	Daru . . . . .	Shri Hari Narayan Dev, B. A., B. L. Sarpanch, Panchas, Panchayat Secretary and villagers.
17-3-61	Mahestra . . . . .	Shri Sambhunath Misra, Sarpanch, Panchas, Panchayat Secretary and villagers.
18-3-61	Boriyo . . . . .	Shri Nilakanta Narain Tiwari, Sarpanch Shri Tiwari, Mukhiya, Panchas, Gram Sevak and Villagers.
18-3-61	Koktoro . . . . .	Shri Alimuddin Ansari, Mukhiya. Shri Debi Pahan, Sarpanch, Panchas, Gram Sevak and villagers.
20-3-61	Noor Sarai . . . . .	Shri Gurcharan Ram, Mukhiya. Shri Jaman Prasad, Mukhiya of Bara Khud. Shri Ram Pande, Sarpanch. Shri Shiv Prasad Lohane. Panchas, Gram Sevak and villagers.
22-3-61	Rampur Raghavpur . . . . .	Shri Bajur Singh, Panch. Shri Jaganarayan Mahto, Sarpanch. Pandit Ramasis Misra, Mukhiya. Shri Prasad Manar, Ex-Mukhiya. Shri Tookan Yadav, Panch and Villagers.
PUNJAB		
16-4-61	Bhuntar . . . . .	Shri Bhagmal Sarpanch Shri Daulat Ram, Panch Shri Dhani Ram Panch Shri Mohar Singh, Panch Smt. Revati Devi, Panch Shri Ses Ram, Panch Shri Tek Ram, Panch
		Silihar Gram Panchayat



Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
16-4-61	Manali . . . .	Other Sarpanchas, Panchas of neighbouring panchayats and villagers <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">           Shri Bhag Chand, Panch,            Smt. Bhagti Devi, Panch            Shri Jagdamba Prasad Panch            Shri Kundhu Ram Panch,            Shri Kunj Lal, Sarpanch            Shri Lot Ram, Panch            Shri Tule Ram, Panch         </div> <div style="font-size: 3em; margin-right: 10px;">}</div> <div>           Nasogi Gram            Panchayat         </div> </div>
18-4-61	Paprola . . . .	Other Sarpanchas, Panchas of neighbouring panchayats and villagers.
18-4-61	Paprola . . . .	Shri Mehta Amar Chand, Sarpanch and 6 Panchas of Paprola Panchayat and villagers of Paprola.
19-4-61	Mukandpur . . . .	Sardar Kuldip Singh, Sarpanch and Panchas of Mukandpur Gram Panchayat and villagers of Mukandpur.
19-4-61	Balachour . . . .	Shri Yeshpal Singh, Sarpanch, Balachour Gram Panchayat and Sarpanchas and Panchas of neighbouring Panchayats of Hoshiarpur Tehsil.
21-4-61	Pinjore . . . .	Sarpanchas and Panchas of Pinjore and neighbouring panchayats.
HIMACHAL		PRADESH
31-5-61	Jabli . . . .	Shri Balkrishna, Sarpanch Garkhal Nyaya Panchayat. Shri Devi Dutt, Sarpanch, Krishangarh Nyaya Panchayat. Shri Hari Kishan Sarpanch, Guthel. Shri Ishwari Singh, Kanvar, President Garkhal Gram Panchayat Shri Paras Ram, Sarpanch, Jogitnagar Nyaya Panchayat and 11 villagers.
2-6-61	Darla . . . .	Shri Bali Ram, Pradhan, Mangu Gram Panchayat. Shri Chet Ram, Panchayat Secretary. Shri Dhani Ram, Panch, Darla Nyaya Panchayat. Shri Dhani Ram, Pradhan, Surajpur Gram Panchayat. Shri Durga Dass, Sarpanch, Darla Nyaya Panchayat. Shri Gita Ram, Sarpanch, Mangu Nyaya Panchayat. Shri Jagan Nath, Sarpanch, Nagaon Nyaya Panchayat. Shri Jagat Ram, President, Darla Gram Panchayat. Shri Karam Chand, Panchayat Secretary. Shri Mansa Ram Chauhan, Sarpanch, Plog Nyaya Panchayat.

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
	Darla (Contd).	<p>Shri Masat Ram, Sarpanch Kashlog Nyaya Panchayat.</p> <p>Shri Sagar Ram, Panchayat Secretary</p> <p>Shri Sita Ram, Naib Sarpanch, Darla Nyaya Panchayat.</p> <p>Shri Surat Ram, Sarpanch, Deoti Nyaya Panchayat.</p> <p>Shri Tulsi Ram, Pradhan, Nagaon Gram Panchayat.</p>
2-6-61	Namhol . . .	<p>Shri Basanta Ram, Panch, Namhol Nyaya Panchayat.</p> <p>Shri Gopala Ram, Member, Namhol Gram Panchayat.</p> <p>Shri Kanshi Ram, Sarpanch, Namhol Nyaya Panchayat.</p> <p>Shri Roda Ram, Member, Namhol Gram Panchayat</p> <p>Shri Sant Ram Sant, President, Chandpur Gram Panchayat.</p> <p>Shri Tulsi Ram, President, Namhol Gram Panchayat and villagers.</p>
3-6-61	Theog . . .	<p>Shri Ajva Ram Panatu, Panch, Majhar Nyaya Panchayat.</p> <p>Shri Budhi Ram, Sarpanch, Jais Nyaya Panchayat.</p> <p>Shri Het Ram, Panch, Deorighat Nyaya Panchayat.</p> <p>Shri Het Ram, President, Deorighat Gram Panchayat.</p> <p>Shri Kali Ram, Member, Teh Panchayat Theog.</p> <p>Shri Lachman Dass, Sarpanch, Deorighat Nyaya Panchayat.</p> <p>Shri Lagan Dass, Member, Teh. Panchayat Theog.</p> <p>Shri Prit Pal Singh, President, Teh. Panchayat.</p> <p>Shri Ram Datt, President, Dhamandari Gram Panchayat.</p> <p>Shri Rati Ram, Member, Deorighat Gram Panchayat.</p> <p>Shri Sher Singh, Member, Teh. Panchayat, Theog.</p> <p>Shri Shiv Singh, President, Jais Gram Panchayat.</p>
3-6-61	Sandhu . . .	<p>Shri Arjun Dass, Member, Gram Panchayat.</p> <p>Shri Balak Ram, Panch, Nyaya Panchayat.</p> <p>Shri Chet Ram, Panch, Nyaya Panchayat, Sandhu,</p> <p>Shri Dila Ram. —ao—</p> <p>Shri Kanshi Ram, Panch, Nyaya Panchayat Sandhu.</p> <p>Shri Kewal Ram, Panch, Nyaya Panchayat.</p> <p>Shri Lachman Singh, Panch Nyaya Panchayat, Sandhu.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
3-6-61	Narkanda	<p>Shri Mathu Ram, Naib Sarpanch, Sandhu Nyaya Panchayat.            Shri Paras Ram, Member, Gram Panchayat.            Shri Paras Ram, Sarpanch, Sandhu Naya Panchayat.            Shri Sita Ram, President Sandhu Gram Panchayat.            Shri Shiv Raj, Sarpanch, Kiar Nyaya Panchayat.</p> <p>Shri Bali Ram, Sarpanch, Bhuti Nyaya Panchayat.            Shri Budhi Ram, Pradhan, Narkanda Gram Panchayat.            Shri Devi Das Mehta, Sarpanch, Dansu Nyaya Panchayat.            Shri Dewa Kar, Sarpanch, Kumarsuin Nyaya Panchayat.            Shri Dilu Ram, Pradhan, Bhuti Panchayat.            Shri Gautam S.P., Pradhan, Kumarsuin Gram Panchayat.            Shri Puran Chand, Sarpanch, Narkanda Nyaya Panchayat, and 5 villagers (S/Shri Prem Sukh, Shaman Nand, Rup Das, Nand and Adam Ram).</p>
14-6-61	Shiralu	<p>Shri Adam Ram, Member, Gram Panchayat.            Shri Baloo Ram, Secretary, Gram Panchayat.            Shri Bhatat Ram, Member, Gram Panchayat.            Shri Durga Singh, Panch.            Shri Gando Ram, Panch.            Shri Gori Datt, President, Cooperative Society.            Shri Kanshi Ram, Member, Gram Panchayat.            Shri Mansukh Ram, Panch.            Shri Munsha Ram, Naib Sarpanch.            Shri Naik, Ram, Member, Gram Panchayat.            Shri Paras Ram, Member, Gram Panchayat, 10 villagers (S Shri Balik Ram, Bhagat Ram, Jagdish, Kali Ram, Kanshi Ram, Mahesh Ram, Mir Chand Paras Ram, Parmanand and Roop Dass).</p>
MADRAS		
13-6-61	Savoor	<p>Shri Gangadhara Mudaliar, Vice-President, Savoor Panchayat Court.            Shri Raghava Naicker, President, Savoor Panchayat Court.            Members of Savoor Panchayat Court and villagers.</p>
	Kangeyanallur	<p>Shri Sachidanandam, President, Panchayat Court.            Members of Panchayat Court and villagers.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
14-6-61	Allavaram . . .	Shri Lakshmana Mudaliar V.R., President, Allavaram Village Panchayat Court. Members of the Panchayat Court and villagers.
	Ammapettai . . .	Shri Narayanaswamy, President, Ammapettai village Panchayat Court. Members of the Court and villagers.
16-6-61	Irugur . . .	Shri Chinnaia Gounder, Member, Irugur Panchayat Court. Shri Krishna Thevar, Member. Court Shri Kuppuswamy, E.K., President. Shri Maiyapuri Gounder, Vice-President. Shri Maniam, Member. Shri Maina Thevar, Member. Shri Maniappan, Member. Shri Maruhatchala Thevar, Member. Shri Palani Gounder, Member. Shri Ramaswamy Gounder, Member. Shri Rangaswamy Gounder, Member. Shri Rangaswamy Thevar, Member. Shri Subbaiyan, Member. Shri Venkatachala Gounder, Member.
16-6-61	Tirupur South . . .	Shri Amassi K., Member. Shri Kandi N., Member. Shri Krishna Mudaliar R., Member. Shri Mohd. Haneefa Sahib S.M.E., President.  Shri Mohd. Sheriff Sahib S.A.H., Member. Shri Nachimuthu N., Member. Shri Palaniswamy R., Member. Shri Raju A., Member. Shri Thammanna Mudaliar L., Vice-President.
17-6-61	Coimbatore North . . .	Shri Karna Elliah Chettiar, President and 10 members and some local people.
KERALA		
19-6-61	Ottapalam . . .	President and two members of the Panchayat Court and villagers.
„	Wadakkanchery . . .	Shri Moidoo K.K., President, village Court. Shri Narayanan Mamboodiri M., Senior Judge, Village Court. Shri Nicholas, Judge, Village Court. (Retired school teacher).
20-6-61	Irinjalakuda . . .	President, Members of the village court and villagers.
„	Chalakydy . . .	Shri Bhaskara Menon A., Vice-President.  Shri Bhaskara Menon K. Shri Bhaskaran Nair K., Panchayat Member, Chalakydy. Shri Chakkuria W.J., President, Melur Panchayat.

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
3-6-61	Narkanda	<p>Shri Mathu Ram, Naib Sarpanch, Sandhu Nyaya Panchayat.            Shri Paras Ram, Member, Gram Panchayat.            Shri Paras Ram, Sarpanch, Sandhu Naya Panchayat.            Shri Sita Ram, President Sandhu Gram Panchayat.            Shri Shiv Raj, Sarpanch, Kiar Nyaya Panchayat.</p> <p>Shri Bali Ram, Sarpanch, Bhuti Nyaya Panchayat.            Shri Budhi Ram, Pradhan, Narkanda Gram Panchayat.            Shri Devi Das Mehta, Sarpanch, Dansu Nyaya Panchayat.            Shri Dewa Kar, Sarpanch, Kumarsuin Nyaya Panchayat.            Shri Dilu Ram, Pradhan, Bhuti Panchayat.            Shri Gautam S.P., Pradhan, Kumarsuin Gram Panchayat.            Shri Puran Chand, Sarpanch, Narkanda Nyaya Panchayat, and 5 villagers (S/Shri Prem Sukh, Shaman Nand, Rup Das, Nand and Adam Ram).</p>
14-6-61	Shiralu	<p>Shri Adam Ram, Member, Gram Panchayat.            Shri Baloo Ram, Secretary, Gram Panchayat.            Shri Bhatat Ram, Member, Gram Panchayat.            Shri Durga Singh, Panch.            Shri Gando Ram, Panch.            Shri Gori Datt, President, Cooperative Society.            Shri Kanshi Ram, Member, Gram Panchayat.            Shri Mansukh Ram, Panch.            Shri Munsha Ram, Naib Sarpanch.            Shri Naik, Ram, Member, Gram Panchayat.            Shri Paras Ram, Member, Gram Panchayat, 10 villagers (S/Shri Balik Ram, Bhagat Ram, Jagidish, Kali Ram, Kanshi Ram, Mahesh Ram, Mir Chand Paras Ram, Parmanand and Roop Dass).</p>
MADRAS		
13-6-61	Savoor	<p>Shri Gangadhara Mudaliar, Vice-President, Savoor Panchayat Court.            Shri Raghava Naicker, President, Savoor Panchayat Court.            Members of Savoor Panchayat Court and villagers.</p>
	Kangeyanallur	<p>Shri Sachidanandam, President, Panchayat Court.            Members of Panchayat Court and villagers.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
28-6-61	Tadepalli . . . . .	<p>Shri Venkataratnam K. Member, Mangalagiri Panchayat Samiti.</p> <p>Shri Venkatasubbiah R., Member, Chirravur Panchayat.</p> <p>Shri Venkateswara Rao K., President, Chirravur Panchayat.</p> <p>Shri Chennuiah D., Member, Tadepalli Panchayat Court.</p> <p>Shri Dharamlingeswara Rao A., President Tadepalli Panchayat Court.</p> <p>Shri Ibrahim V., Member</p> <p>Shri Jayarao R., Member</p> <p>Shri Kanakaiah L Member</p> <p>Shri Police R., Member</p> <p>Shri Pothurasu Reddy, Villager</p> <p>Shri Ramreddy, Member</p> <p>Shri Samuel M., Member</p> <p>Shri Sanki Reddy D., Member</p> <p>Shri Venkata Reddy K, Vice-President.</p>
		<p>Shri Appireddy, V., President</p> <p>Shri Arjunareddy B. Member</p> <p>Shri Basavaiah V., Member</p> <p>Shri Pitchireddy N., Member</p> <p>Shri Polarao S., Member</p> <p>Shri Potaraju K., Member</p> <p>Shri Seetaramreddy B., Member.</p> <p>Shri Sikhamani Ch., Member</p> <p>Shri Venkatesu K.. Member and villager.</p> <p>Shri Adisimelli Venkatachalam, President, Chandrula Panchayat Board.</p> <p>Shri Bangarayya V. President Brahmadole (West Godavari) Panchayat Samiti.</p> <p>Shri Ghanta? Krishnamoorthy, President, Panchayat Samiti.</p>
29-6-61	Pamarru . . . . .	<p>Shri Appireddy, V., President</p> <p>Shri Arjunareddy B. Member</p> <p>Shri Basavaiah V., Member</p> <p>Shri Pitchireddy N., Member</p> <p>Shri Polarao S., Member</p> <p>Shri Potaraju K., Member</p> <p>Shri Seetaramreddy B., Member.</p> <p>Shri Sikhamani Ch., Member</p> <p>Shri Venkatesu K.. Member and villager.</p>
29-6-61	Moturu . . . . .	<p>Shri Appireddy, V., President</p> <p>Shri Arjunareddy B. Member</p> <p>Shri Basavaiah V., Member</p> <p>Shri Pitchireddy N., Member</p> <p>Shri Polarao S., Member</p> <p>Shri Potaraju K., Member</p> <p>Shri Seetaramreddy B., Member.</p> <p>Shri Sikhamani Ch., Member</p> <p>Shri Venkatesu K.. Member and villager.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
30-6-61	Sattanapalli . . . .	Shri Ramaiah A., President Gondakoduru Panchayat.  Shri Bhadriraju D. Member, Sattanapalli, Panchayat Court.  Shri Narasimham B., Member, Sattanapalli Panchayat Court.  Shri Radha Krishnamoorthy P., Member Sattanapalli Panchayat Court.  Shri Ramiah B., Vice- President. } Sattanapalli Shri Ramulu K., Member } Panchayat Shri Venkateswarulu V., } Court. President and villagers.
1-7-61	Kokapet . . . .	Shri Venkoiah B. of Kanapur village.
2-7-61	Malkajigiri . . . .	Shri Bhim Singh of Malkajigiri village.  Shri Madhusudan Reddi S., President, Malkajigiri Panchayat and President, Hayatnagar Panchayat Samiti.  Shri Sritam Sastri and other villagers.
MYSORE		
9-8-61	Chamundi Hills . . . .	Shri Chamiah C.S., Chairman, Chamundi Hills Panchayat.  Shri Kaliah, Member Chamundi Hills Panchayat.  Members of Chamundi Hills Panchayat and villagers.
9-8-61	Hinkal . . . .	President and members of the Hinkal Panchayat and villagers.
9-8-61	Yelwal . . . .	President and members of Yelwal Panchayat and villagers.
9-8-61	Maidenahalli . . . .	President and members of Maidenahalli Panchayat and villagers.
11-8-61	Singanayakahalli . . . .	Shri Narasimhiah, Panchayat President, members of the Panchayat and villagers.
RAJASTHAN		
5-9-61	Savina . . . .	Shri Kalulal, Chairman, Nyaya Panchayat.  Shri Meghraj, Member, Nyaya Panchayat.  Shri Narayanji, Member, Nyaya Panchayat.
29	Matun . . . .	Shri Bhagaji  Shri Bharia  Shri Chanaji } Member, Nyaya Shri Dalchand } Panchayat.

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
6-9-61	Daroli	<p>Shri Rai Singh, Chairman, Nyaya Panchayat.</p> <p>Shri Ramaji, Member, Nyaya Panchayat.</p> <p>Shri Tejoji, Member, Nyaya Panchayat.</p> <p>Shri Amir Mohd. Gram Sevak.</p>
7-9-61	Deval	<p>Shri Bhanwari Lal Kothari, Pradhan, Panchayat Samiti, Bhinder.</p> <p>Shri Bundi Lal, Chairman, Nyaya Panchayat.</p> <p>Smt. Jamuna Bai, Member, Gram Panchayat.</p> <p>Shri Kanhaiyalal</p> <p>Shri Kesu Ram</p> <p>Shri Mohan Singh</p> <p>Shri Nirbhaya Singh, Up-Pradhan, Panchayat Samiti.</p> <p>Smt. Rattan Bai, Member, Gram Panchayat.</p> <p>Shri Roshan Lal, Member, Nyaya Panchayat.</p> <p>Shri Shankarlal, Member, Nyaya Panchayat.</p> <p>Shri Shyamlal, Vikas Adhikari and 31 villagers.</p> <p>Shri Champalal, Member, Gamdi Gram Panchayat.</p> <p>Shri Dhulaji, Member, Vaddadari Gram Panchayat.</p> <p>Shri Dhulersinghji, Member, Todi Overi Gram Panchayat.</p> <p>Shri Govanji, Chairman, Deval Gram Panchayat.</p> <p>Shri Thawarchandji, Member, Shished Gram Panchayat.</p> <p>Shri Vakhat Ram, Secretary, Deval Nyaya Panchayat.</p> <p>Shri Virji, Member, Pal Deval Gram Panchayat.</p>



Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
8-9-61	Jhotwara . . .	<p>Shri Bhandari, A.C., Research Scholar, Panchayati Raj Research Project, University, Jaipur.</p> <p>Shri Damodar Lal Sharma, Offg. Sarpanch, Jhotwara.</p> <p>Shri Hanuman Prasad, Chairman, Nyaya Panchayat, Jhotwara.</p> <p>Shri Hanuman Sahai Sharma, President Jhotwara Panchayat Samiti.</p> <p>Shri Kalayan, Chairman, Pochar Nyaya Panchayat.</p> <p>Shri Kishori Lal, Vikas Adhikari.</p> <p>Shri Nathulal, Member, Sirsi Nyaya Panchayat.</p> <p>Shri Rameshwar Prasad, Member, Jhotwara Nyaya Panchayat and 24 villagers of Pochar including Kalu, Bharun and Suva.</p>
UTTAR PRADESH		
26-9-61	Asti . . .	<p>Shri Ram Naresh Singh, Pradhan/Up-Sarpanch.</p> <p>Shri Shambhu Dutt Misra, Up-Pradhan.</p> <p>Shri Tribandh Dutt, Sarpanch.</p>
28-9-61	Philkhini-Chhauni .	<p>Shri Raghavendra Narain Singh, Villager.</p> <p>Shri Rama Lakhan Singh, Sarpanch.</p>
28-9-61	Baraut	<p>Shri Sat Narain Singh, Up-Sarpanch.</p> <p>Shri Amar Bahadur Singh, Sarpanch.</p> <p>Smt. Banjhari, President, Gram Panchayat.</p> <p>Shri Bansidhar, Panch.</p> <p>Shri Benchu Lal, Panch.</p> <p>Shri Bhadri Narainji, Panch.</p> <p>Shri Bhagawati, Panch.</p> <p>Shri Chintaman, Panch.</p> <p>Shri Chote Lal Singh, Panchayat Secretary.</p> <p>Shri Lal Bahadur Srivastava, Panch.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
		<p>Shri Nand Kishore, Panch.</p> <p>Shri Paras Nath, Panch.</p> <p>Shri Purshotham Lal, Gram Sevak.</p> <p>Shri Ram Chander, Panch.</p>
JAMMU & KASHMIR		
24-10-61	Bandipur . . . .	<p>Shri Abdul Ahad Jan, Deputy Sarpanch, Alusa Panchayat.</p> <p>Shri Abdul Rahman Mir, Sarpanch, Vatipore Panchayat.</p> <p>Shri Gaffar Mir, Sarpanch, Bandipur Panchayat.</p> <p>Shri Gulam Ahmad Laon, Sarpanch, Matugain Panchayat.</p> <p>Shri Gulam Nabi Mir, Chairman, Bandipur Panchayat.</p> <p>Shri Gulam Qadir Dar, Member, Bandipur Panchayat.</p> <p>Shri Habib Ullah Loan, Member, Bandipur Panchayat.</p> <p>Shri Haji Abdul Rahim, Chairman, Vatipore Panchayat.</p> <p>Shri Mohammad Yusaf, Chairman, Arindarpura Panchayat.</p> <p>Shri Mohammad Yusaf Shah, Member Bandipur Panchayat.</p> <p>Shri Rishi Lal, Chairman, Matugani Panchayat.</p> <p>Shri Syed Hasam Shah, Sarpanch, Alusa Panchayat.</p>
24-10-61	Vatipura . . . .	Panchayat Secretary and villagers.
25-10-61	Medura . . . .	<p>Shri Gulam Ahmed Laon, Member, Judicial Committee, Medura Panchayat.</p> <p>Shri Ghulam Ahmed Shah, Sarpanch and Member, Judicial Committee, Medura Panchayat.</p> <p>Shri Ghulam Nabi Zargar, Member, Judicial Committee, Medura Panchayat.</p> <p>Shri Gul Shah, Member, Medura Panchayat.</p> <p>Shri Mella Ramzan, Member, Tral Panchayat.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
		Shri Mohammad Ganai, Member, Medura Panchayat. Shri Mohammad Jabar Laon, Member, Medura Panchayat.  Shri Mohammad Sadiq, Member, F Judicial Committee, Tal Panchayat.
26-10-61	Wathura . . .	Chairman and villagers.
27-10-61	Karpora . . .	Sarpanch, Chairman and villagers.
GUJARAT		
13-11-61	Sarkhej . . .	Shri Balchandra R. Tripathi, Chairman, Nyaya Panchayat.  Shri Chagaubhai Gangaram Panchal, Sarpanch (Chairman of Gram Panchayat).  Shri Fulabhai Anjibhai Thakur, Member, Nyaya Panchayat.  Shri Ganpatbhai Somabhai, Member, Nyaya Panchayat.  Shri Shankarbhai Beni Ram Thakur, Panchayat Secretary, and 10 villagers.
13-11-61	Bawla . . .	Shri Achrat Lal Amit Lal, President, Gram Panchayat.  Shri Amrit Lal Kassonadass, Member, Gram Panchayat.  Shri Baldevbhai Chunilal, Panchayat Secretary.  Dr. Chotabhai Patel, Chairman, Zila Local Board  Shri Natwarlal Mangaldas, Member, Nyaya Panchayat.  Shri Rajendra Prasad Chunilal Tripathi Villager.  Shri Ranchorbhai Ambaramdas, Chairman, Nyaya Panchayat.  Shri Shivalal Mooljibhai, Member, Nyaya Panchayat.
14-11-61	Kolithad . . .	Shri Chotalal Morarji, Member, Nyaya Panchayat.  Shri Gokalbhai Vllabhbhai, Member, Nyaya Panchayat.  Shri Gordhan Jeerambhai, Member, Nyaya Panchayat.

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
		<p>Shri Jamandas Bavabhai, Member, Nyaya Panchayat.</p> <p>Shri Jivanlal Premjibhai, Panchayat Secretary.</p> <p>Shri Laxmanbhai Popatbhai, Chairman, Nyaya Panchayat, &amp; Member, Gram Panchayat.</p> <p>Shri Thakarshibhai Vastabhai, Member, Gram Panchayat, and villagers.</p>

## MAHA RASHTRA

16-11-61	Bhuing	<p>Shri Anant Laxman, Village Panchayat Secretary.</p> <p>Shri Baburao Govindrao Bhosale, Member, Village Panchayat.</p> <p>Smt. Bhagirathibai, Member, Panchayat.</p> <p>Shri Hari Malipati Bhosle, Member, Village Panchayat.</p> <p>Shri Jaysing Maruti Narawane, Member, Village Panchayat.</p> <p>Shri Malibhai Santu Kharat, Member, Nyaya Panchayat.</p> <p>Shri Nagu Piaji Shewate, Member, Village Panchayat.</p> <p>Shri Narayan K. Shevate, Member, Village Panchayat.</p> <p>Shri Ramchandenrao Govindrao Jadhav, Member, Village Panchayat.</p> <p>Shri Ramchandra Appaji Bhosale, Sarpanch, village Panchayat.</p> <p>Shri Sarjerao Haribhan Bhosale, Chairman, Nyaya Panchayat, and Member, Village Panchayat.</p> <p>Shri Thukaram Shewate, Member, Village Panchayat.</p>
16-11-61	Vadagaon	<p>Smt. Bhagbhai Sripati Bhugat, Member, Gram Panchayat.</p> <p>Shri Davande, Member, Gram Panchayat,</p> <p>Shri Harchand Raichand Baphna, President, Gram Panchayat.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
<b>WEST BENGAL</b>		
24-11-61	Baharu	<p>Shri Bose S., Union Board Member.  Shri Ghosh P., Secretary, Jeonagar Thana Congress.  Shri Hira Lal Sarkar, Member, Union Bench.  Shri Kazi Abu Tahir, Member, Union Bench.  Shri Manmohan Nath Haldar.  Shri Mitra K., Villager.  Shri Mondal P. B., President, Union Bench.  Shri Mukhopadhyaya I. C., Member, Union Bench.  Shri Nayak B. C., Member, Union Board.  Shri Sarkar R. R., Member, Union Board.  Shri Sarkar S. K., Member, U. B.  Shri Sunil Kumar Das, Member, Union Bench.  Dr. Tridibeswar Kasanji and villagers.</p>
25-11-61	Pandua	<p>Shri Abdul Gaffar, B. Com., Member, U.B. &amp; U. C.  Shri Chandra A., President, Union Board.  Shri Paul S. N., Member, U. B. &amp; U. C. and villagers.</p>
25-11-61	Bantul	<p>Shri Bhupesh Chander Mitra, President, Union Board.  Shri Majhi G.B., Member, U.B.  Shri Sheikh K., Member, U. B. &amp; U. C. and villagers.</p>
<b>ORISSA</b>		
29-11-61	Itarnati	<p>Shri Dhaneshwar Sahu, President, Adalati Panchayat.  Shri Jagan Nath Balan.  Shri Nilamani Naik.  Shri Rangalal Ram, Sarpanch, Gram Panchayat.</p>
29-11-61	Nayagarh	<p>Shri Sahu A., Panch and villagers.  Shri Das K., Sarpanch, Gram Panchayat.  Shri Patnaik G. C., President, Adalati Panchayat.  Shri Patnaik R. C., Panch, Adalati Panchayat and villagers.</p>
30-11-61	Ganjam	<p>Shri Arjuna Polai, Chairman, Panchayat Samiti.  Shri Bhaskara Sahu, President, Adalati Panchayat, Sadulia.  Shri Jagan Nath Panda, President, Adalati Panchayat, Ganjam.  Shri Jaya Krishna Chowdhury, Panch, Adalati Panchayat, Ganjam.  Shri Kashinath Subudhi, President, Adalati Panchayat, Rambha.  Shri Sriram Das, Panch, Adalati Panchayat, Ganjam.  Shri Udaya Nath Pakhi, Panch, Adalati Panchayat, Rambha and 20 villagers.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
<b>DELHI</b>		
30-12-61	Azadpur	Shri Janak Raj, Member, Adalati Panchayat. Shri Krishan Lal, Member, Adalati Panchayat. Shri Radhey Shyam, Member, Adalati Panchayat. Dr. Shanti Swarup, Sarpanch. Shri Sri Krishan, Vice-Sarpanch. Shri Tula Ram, Member, Adalati Panchayat, and villagers.
"	Allpore	Shri Attar Singh, Sarpanch. Shri Bakhtawar Singh, Panch. Shri Bharat Singh, Panch. Shri Girdhar Singh, Panch and 10 villagers.
<b>MADHYA PRADESH</b>		
16-1-62	Mhow	Shri Abdul Hamid Khadim, Secretary, Kendra Panchayat. Shri Ahmed, Panch, Nyaya Panchayat, Mhow. Shri Azizbhai, Panch, Mhow, Gram Panchayat. Shri Babulalji, Panch, Gram Panchayat, Mhow. Shri Bhagirati Varma, Sarpanch, Kendra Panchayat, Mhow. Shri Bhagwatiiji Sabu, Panch, Kendra Panchayat, Mhow. Shri Bondarji, Panch, Nyaya Panchayat, Gujarkhoda. Shri Budh Chowdhury, Panch, Gram Panchayat, Gujarkhoda. Shri Chotelal Pande, Chairman, Nyaya Panchayat, Mhow. Shri Datar Singh, Panch, Nyaya Panchayat, Mhow. Shri Dhan Singh Pancholia, Secretary, Nyaya Panchayat, Mhow. Shri Fatelalji, Panch, Nyaya Panchayat, Gujarkhanda. Shri Gangadharji Sharma, Accountant, Kendra Panchayat, Mhow. Shri Ghisaji, Sarpanch, Sihod Gram Panchayat. Shri Ghisalalji, Panch, Nyaya Panchayat, Mhow. Shri Hiralalji Rao, Sarpanch, Nyaya Panchayat, Harsola. Shri Kanhayalal Satode, Panch, Kendra Panchayat, Umra, Mhow. Shri Kani Ram, Sarpanch, Gram Panchayat, Mein. Shri Latibhai, Panch, Nyaya Panchayat, Mhow. Shri Laxminarayanji of Hasalpur village. Shri Pannalalji, Panch, Gram Panchayat, Gauli Palasia. Shri Prithviraj, Sarpanch, Gram Panchayat, Datoda. Shri Pyanelalji Powar, Sarpanch, Gram Panchayat, Mhow.

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
16-1-62	Harsola	<p>Shri Ramchander, Secretary, Gram Panchayat, Mhow.          Shri Ram Singh, Panch, Nyaya Panchayat, Mhow.          Shri Sagar, Secretary, Gram Panchayat, Semvul.          Shri Shiv Bhushan Singh, Panch, Nyaya Panchayat, Mhow.          Shri Sataramji, Panch, Nyaya Panchayat, Mhow.          Shri Sunder Das Chunnilal, Panch, Nyaya Panchayat, Harsola.          Shri Totaramji Panch, Nyaya Panchayat, Mhow.</p>
17-1-62	Sanchi	<p>Shri Berulal, Panch, Gram Panchayat, Harsola.          Shri Bhagwanji, Panch, Nyaya Panchayat, Harsola.          Shri Hiralal Rao, Sarpanch, Nyaya Panchayat, Harsola.          Shri Kanhaya Lal, Panch, Nyaya Panchayat, Harsola.          Shri Kani Ram, Panch, Nyaya Panchayat, Harsola.          Shri Krishenji Vyas, Adhyaksh, Brahtakar Society.          Shri Madhu Chowdhry, Up-Sarpanch, Gujarkhera Panchayat.          Shri Mohamed Husain, Secretary, Gram Panchayat, Harsola.          Shri Mohanlal, Singhal, Sanghi Street, Mhow.          Shri Ramkrishenji Mukati, Panch, Gram Panchayat, Harsola.          Shri Sunder Das Chunilal, Panch, Nyaya Panchayat, Harsola.</p>
6-3-62	Mawsynram	<p><b>ASSAM</b></p> <p>Shri Bangsiton, Vice-Chairman, Non-gshluid village.          Shri Bison, Vice-Chairman, village court.          Shri Bressing, Secretary, village durbar.          Shri Hedson, President, Cultural Club, Mawsynram.          Shri Kobersav, Myntri in charge, Mawsynram village.          Shri Lyngdoh, Gram Sevak, Mawsynram Circle.          Shri Marbaniang, K. D., Gram Sevak, Laitmawsiang Circle.          Shri Marbaniang M. S., Gram Sevak, Phlangwambroi Circle.          Shri Natep B.D., Sirdar, Mawdon.</p>

Date	Name of Nyaya Panchayat visited	Persons examined or interviewed
		<p>Shri Pleiosking Nongrum, Gram Sewak, Nongspung Circle.</p> <p>Shri Prevan Singh, Teacher and Headman of Laitsobum Village.</p> <p>Shri Roosevelt, Teacher.</p> <p>Shri Siroson, Headman, Mawsynram, Village Durbar.</p> <p>Shri Sixdroshon, Headmaster, Mawsynram School.</p> <p>Shri Sosham, Secretary, Village Durbar.</p> <p>Shri Thawmuit, Gram Sevak, Lyingkhohi Circle.</p> <p>Shri Westerland M., Gram Sevak, Rangku Circle, Villager* (S/Shri Dra Jasmantice, Koran, Lendorsingh, Obar Obiken, Sorki Mohan).</p>



सत्यमेव जयते



## APPENDIX IV

### LIST OF STATE OFFICIALS ASSOCIATED WITH THE STUDY TEAM STATES

1. Andhra Pradesh	Shri Y. Guru Reddy	Deputy Inspector-General of Local Administration.
2. Assam	Shri C. Thomas	Under Secretary, Community Development Department.
3. Bihar	Shri Ishwari Prasad	Director of Gram Panchayat.
4. Gujarat	Shri H.H. Trivedi	Deputy Secretary, Rural Development Department.
5. Jammu & Kashmir	Shri G.D. Bargotra	Deputy Development Commissioner.
6. Kerala	Shri R. Kesavan Nair	Deputy Director of Local Bodies.
7. Madhya Pradesh	Shri A.S. Khan	Deputy Secretary, Local Government (Rural) Department.
8. Madras	Shri N.R. Kesava Reddy	Assistant Secretary, Home Department.
9. Maharashtra	Shri M.A. Dhuma]	Special Officer (Panchayats), Co-operation and Rural Development Department.
10. Mysore	Shri B. Venkataramia	Under Secretary, Development and Rural Local Administration Department.
11. Orissa	Shri B.B. Rath	Joint Secretary and Director of Panchayats.
12. Punjab	Shri Net Ram	Deputy Director of Panchayats.
13. Rajasthan	Shri Ram Singh	Joint Development Commissioner.
14. Uttar Pradesh	Shri Bhagwant Singh	Director of Panchayats.
15. West Bengal	Shri N.M. Bardhan	Director of Panchayats.

### UNION TERRITORIES

1. Delhi	Shri Anang Pal	Director of Panchayats.
2. Himachal Pradesh	Shri V.S. Sharma	Director of Panchayats.

## APPENDIX V

### STATISTICAL INFORMATION

(NOTE.—We have reproduced in this Appendix some extracts from statistical information furnished to us by various State Governments. There are several discrepancies in the data supplied to us by the various States and the data could have been prepared with greater care and on a more scientific basis. For example, no State seems to have collected data to ascertain the extent of relief which regular courts may have obtained as a result of the working of nyaya panchayats. However, the extracts reproduced, representing as they do States from different regions of the country, would give a fairly accurate idea of the success of nyaya panchayats.)





STATEMENT No. 2.—*Gujarat*. (Figures are not complete and during 1960-61 no nyaya panchayats were functioning in several areas of the State).

Year	No. of suits pending at the beginning of the year	Total No. of suits filed during the year	No. of suits compromised	No. of suits tried and disposed of	No. of suits which went up in revision	Results of such revision	No. of Writ Petitions in the High Court, if any	Remarks
1958-59	77	265	128	143	..	..	..	..
1959-60	71	416	251	66	..	..	..	..
1960-61	176	207	158	196	..	..	..	..

STATEMENT No. 3.—*Kerala*. (Figures pertain to courts in Cochin area.)

Year	No. of suits for disposal	Details of suits disposed of			Total No. of suits of suits disposed of	No. of suits pending.
		Ex parte	Admitted or compromised	Struck off	Otherwise disposed of	
1958-59 . . . . .	2,614	954	729	122	304	514
1959-60 . . . . .	2,509	947	657	99	335	471

NOTE.—Out of 45 revision petitions during 1958-59, 33 were disposed of and of these 19 were confirmed and in 1959-60 out of 31 revision petitions 26 were disposed of and of these 16 were confirmed.

STATEMENT No. 4.—Orissa.

Year	No. of suits pending from previous year	No. of suits instituted during the year	Total No. of suits for disposal	No. of suits disposed of	No. of suits compromised	No. of suits disposed of otherwise	No. of suits that went up in revision	Result of revision applications	No. of Writ petitions to the High Court	Remarks
1957-58	542	2,428	2,970	2,329	Not known	..	10	4 set aside	..	..
1958-59	361	2,315	2,676	2,160	4,141	759	40	30 (10 set aside 18 upheld and 2 modified)	..	..
1959-60	524	..	2,374	1,816	1,141	633	10	3 (1 set aside 2 upheld)	..	..
1960-61	553	..	2,023	1,309	873	390	6	2 (both modified)	..	..

Year	No. of cases				Revisions filed	Total evaluation of suits	Amount Decreed
	Decided	Com-pounded	Decreed	Dismissed			
1950-51	12540	6765	3420	2355	88	12,46,814·05	3,33,193·04
1951-52	12170	6562	3365	2243	77	9,41,078·08	3,26,023·04
1952-53	16893	9067	4966	2860	137	16,66,873·05	4,86,384·13
1953-54	24431	13794	6484	4153	149	22,02,729·05	5,40,611·13
1954-55	28277	14671	8396	5210	315	25,19,177·13	6,32,615·05
1955-56	22467	11260	7254	3953	389	23,44,994·15	6,78,634·13
1956-57	24613	11999	8827	4587	420	21,25,767·01	7,47,813·04
1957-58	21215	10383	7086	3746	319	20,01,698·99	7,07,719·39
1958-59	18715	9267	6247	3201	189	16,01,724·99	6,74,076·47
1959-60	16731	8049	5677	3005	120	15,30,202·11	6,25,887·67

STATEMENT No. 6.—*Rajasthan.* (Figures for 1958-59 do not cover four districts.)

Year	No. of suits filed	No. of suits pending from previous year	Total No. of suits (Columns 2 & 3)	No. of suits disposed of	No. of suits pending
1956-57	61625	16045	77670	61809	15861
1957-58	47101	22108	69209	55331	13878
1958-59	42650	17580	60230	45745	14485



STATEMENT No. 7.—*Himachal Pradesh.*

Year	Total No. of receipt	Dis- posed of	Com- pro- mised	Per- centage of com- pro- mises	Pending	No. of appeals preferred	Appeals in which judgment of the bench was confirmed	Per- centage of appeals in which the judgment of the bench was confirmed	Appeals pending thereof	No. of revisions	No. of revisions in which the judgment of the bench or full bench was confirmed	No. of revisions in which the judgment of the bench or full bench was set aside	Per- centage of revisions in which the judgment of the bench was set aside	Per- centage of the revisions in which the judgment of the bench or full bench was confirmed	Re- marks
1959	1161	896	429	48%	265	48	26	60%	6	5	13 pending	1	50%	50%	
1960	2438	1988	853	43%	450	145	87	71%	23	47	1025 pending	12	54%	45%	

**PART II**  
**STATEMENTS SHOWING THE CRIMINAL CASES DISPOSED OF BY NYAYA PANCHAYATS**

STATEMENT No. I.—Bihar.

Year	No. of cases filed	No. of cases filed		No. of cases disposed of			No. of cases in which appeals against the order of the bench were preferred to full bench					No. of cases entertained by S.D.O. under sec. 73 of the Act	
		Com-promis-ed	Dis-mis-sed	Con-vict-ed	Pend-ing	Total	Com-pro-mis-ed	Upheld	Modi-fied	Dis-mis-sed	Total	Dis-mis-sed	Modi-fied
1951-52	.	11,401	..	2,426	3,105	17,262	263	266	195	390	1,121	97	80
1952-53	.	11,974	1,074	3,187	2,887	19,867	443	405	269	462	1,542	217	116
1953-54	.	19,285	2,154	4,416	4,422	30,760	476	286	287	229	1,146	251	246
1954-55	.	20,926	5,641	3,662	5,735	35,574	358	358	293	234	1,243	117	202
1955-56	.	32,966	10,391	8,417	9,405	61,279	619	594	518	331	1,918	486	376
1956-57	.	40,163	13,305	5,481	11,557	73,800	647	568	445	276	1,917	351	515

STATEMENT NO. 2.—*Gujarat*. (Figures are incomplete and during 1960-61 no nyaya panchayats were functioning in several areas.)

Year	Cases pending at the beginning of the year	Cases filed during the year	Cases compromised	Cases tried and disposed of	Cases which went up in revisions	Decision by revisional court. No. of cases in which judgment was upheld or reversed		No. of Writ Petitions in High Court	Remarks
						Upheld	Reversed		
1958-59 . . . . .	385	3,982	696	2,973	1	1	..	..	
1959-60 . . . . .	688	2,739	531	1,878	8	6	2	1	
1960-61 . . . . .	814	784	469	861	1	1	..	..	

STATEMENT No. 3.—Orissa.

Year	No. of cases pending from previous year	No. of cases instituted during the year	Total No. of cases for disposal	No. of cases compromised	No. of cases acquitted	No. of cases ended in conviction	Total No. of cases disposed of	No. of cases that went up in revision	Result of revision applications	No. of Writ Petitions to the High Court	Remarks
1957-58	1,504	3,556	5,060	2,034	756	493	3,212	82	(35 set aside)	..	
1958-59	1,848	3,158	5,144	2,108	485	612	3,016	23	(7 set aside)	..	
1959-60	1,362	1,723	4,423	1,732	603	561	2,879	32	..	..	
1960-61	1,372	2,131	3,389	1,190	366	230	1,811	32	..	..	

STATEMENT No. 4—*Final*.

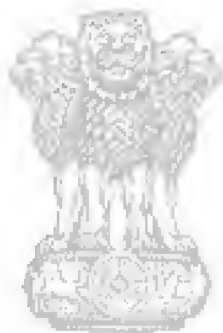
Year	No of cases				Revisions filed	Accepted	Persons convicted	Total fees	Per Head
	Decided	Compoun- ded	Con- victed	Dis- missed					
1950-51 . . . . .	15148	9605	3742	2809	180	100	2577	34,711.00	13.14
1951-52 . . . . .	15293	9262	2456	3175	148	93	2296	34,343.01	14.9
1952-53 . . . . .	18813	12008	2883	3922	252	170	2805	43,299.25	15.6
1953-54 . . . . .	31213	20152	4928	6133	281	118	6543	74,864.03	11.44
1954-55 . . . . .	33661	21227	5667	6767	885	675	6672	98,138.94	14.69
1955-56 . . . . .	23474	14187	4007	5279	435	326	3916	61,133.06	20.00
1956-57 . . . . .	19150	11481	3240	4429	433	325	3455	50,871.68	14.72
1957-58 . . . . .	16031	9223	3011	3797	278	129	2823	43,357.82	15.35
1958-59 . . . . .	13799	7990	2563	3246	214	100	3482	44,884.86	12.89
1959-60 . . . . .	11134	6467	1983	2684	167	105	2647	33,171.80	13.29

STATEMENT No. 5.—*Rajasthan*. (Figures for 1958-59 do not cover four districts.)

Year	No. of cases filed	No. of cases disposed of	Pending
1956-57	75447	71378	19641
1957-58	62050	79406	17230
1958-59	62668	64965	18926

STATEMENT No. 6.—Himachal Pradesh.

Year	Total No. of receipt	Disposed of	Com-promised	Per-cent-ages of com-promises	Pend-ing	No. of appeals preferred	Appeals in which judgment of the bench was confirmed	Per-centage of appeals in which the judgment of the bench was confirmed	Appeals pending thereof	No. of revisions	No. of revisions in which the judgment of the bench or full bench was set aside	Per-centage of the revisions in which the judgment of the bench was set aside	Per-centage of the revisions in which the judgment of the bench or full bench confirmed	Re-marks
1959	2069	1671	871	52%	398	191	138	72.2%	18	40	12 (3 pending)	25	68%	32%
1960	3842	3208	1320	41%	634	332	232	29.4%	61	145	18 (71 pending)	56	75%	25%

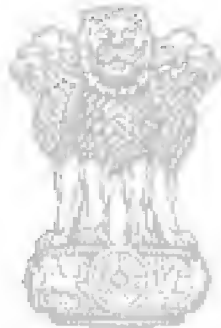


सत्यमेव जयते





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**LAW (MINISTRY OF .....)**



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